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Juniperus. the bottom to the top, forming a well-looking bushy plant. These branches are exceeding tough, and covered with a smooth bark of a reddish colour, having a tinge of purple. The leaves are narrow and sharp-pointed, growing by threes on the branches: their upper surface has a greyish streak down the middle; but their under surface is of a fine green colour, and they garnish the shrub in great plenty. The flowers are small, and of a yellowish colour. They are succeeded by the berries, which are of a bluish colour when ripe." Of this species there is a variety called *Swedish juniper*, which grows 10 or 12 feet high, very branchy the whole length, with the branches growing more erect, and leaves, flowers, and fruit, like the former. But Mr Miller affirms the Swedish juniper to be a distinct species. A prostrate and very dwarfish variety is mentioned by Mr Lightfoot, under the name of *dwarf Alpine juniper*. It is frequently found in the mountains in the Highlands of Scotland, and has broader and thicker leaves than the former; the berries are also larger, or more oval than spherical. 2. The *oxycedrus*, or Spanish juniper, rises from 10 to 15 feet high, closely branched from bottom to top; having short, awl-shaped, spreading leaves by threes, and small diœcious flowers, succeeded by large reddish-brown berries. 3. The *thurifera*, or blue-berried Spanish juniper, grows 20 feet high or more, branching in a conic form, with acute imbricated leaves growing by fours, and small diœcious flowers, succeeded by large blue flowers. 4. The *Virginiana*, or Virginia cedar, grows 30 or 40 feet high, branching from bottom to top in a conic manner, small leaves by threes adhering at their base; the younger ones imbricated, and the old ones spreading; with diœcious flowers, succeeded by small blue berries. 5. The *Lycia*, Lycian cedar, or olibanum tree, grows 20 feet high, branching erect; garnished with small obtuse oval leaves, every-where imbricated; having diœcious flowers, succeeded by large oval brown berries. It is a native of Spain and Italy. 6. The *Phanicia*, or Phenician cedar, grows about 20 feet high, branching pyramidally; adorned with ternate and imbricated obtuse leaves; and diœcious flowers, succeeded by small yellowish berries. It is a native of Portugal. 7. The *Bermudiana*, or Bermudian cedar, grows 20 or 30 feet high, has small acute leaves by threes below, the upper ones awl-shaped, acute, and decurrent, by pairs or fours, spreading outward, and diœcious flowers, succeeded by purplish berries. It is a native of Bermudas. 8. The *Sabina*, or favin tree; of which there are the following varieties, viz. spreading, upright, and variegated favin. The first grows three or four feet high, with horizontal and very spreading branches; with short, pointed, decurrent, erect, opposite leaves; and diœcious flowers, succeeded by bluish berries, but very rarely producing either flowers or fruit. The second grows eight or ten feet high, with upright branches, dark-green leaves like the former, and diœcious flowers, succeeded by plenty of berries. The third has the ends of many of the shoots and young branches variegated with white, and the leaves finely striped; so that it makes a beautiful appearance. There are two other species; the *Barbadensis*, with leaves all imbricated four-ways, the younger ones ovate, the elder acute; and the *Chinenfis*, with leaves decurrent imbricate-expand-

ing crowded, the stem-leaves threefold, the branch-leaves fourfold. *Juniperus.*

Culture. The propagation of all the junipers is by seed, and of the favins by layers and cuttings; but these last may also be raised from the berries, if they can be procured. They may all be sowed in beds of common light earth; except the cedar of Bermudas, which must be sowed in pots, to have shelter in winter. When the hardy kinds have had two or three years growth in the seed-bed, they may be planted out in autumn or in spring, in nursery-rows two feet asunder, there to remain till of due size for final transplantation into the shrubbery. The Bermudas cedar must be sheltered under a frame for the first year or two; when they must be separated into small pots, to be sheltered also in winter for three or four years, till they have acquired some size and strength; then turned out into pots in the full ground, where they are to remain in a warm situation; though a shelter of mats for the first winter or two during hard frosts will be of great service. The season for transplanting all the sorts is either in autumn, October, or November, or in March, and early in April.

Uses, &c. Juniper-berries have a strong, not disagreeable smell; and a warm, pungent, sweet taste; which, if they are long chewed, or previously well bruised, is followed by a bitterish one. The pungency seems to reside in the bark; the sweet in the juice; the aromatic flavour in oily vesicles spread through the substance of the pulp, and distinguishable even by the eye; and the bitter in the seeds. The fresh berries yield, on expression, a rich, sweet, honey-like aromatic juice; if previously pounded so as to break the seeds, the juice proves tart and bitter.—These berries are useful carminatives and stomachics: for these purposes a spirituous water and essential oil are prepared from them, and they are also ingredients in various medicines. The liquor remaining after the distillation of the oil passed through a strainer, and gently exhaled to the consistence of a rob, proves likewise a medicine of great utility, and in many cases is perhaps preferable to the oil or the berry itself. Hoffman is expressly of this opinion, and recommends the rob of juniper in debility of the stomach and intestines; and says it is particularly serviceable to old people who are subject to these disorders, or labour under a difficulty with regard to the urinary secretion. This rob is of a dark brownish-yellow colour, a balsamic sweet taste, with a little of the bitter, more or less according as the seeds in the berry have been more or less bruised. But perhaps one of the best forms under which they can be used is that of a simple watery infusion. This, either by itself or with the addition of a small quantity of gin, is a very useful drink for hydropic patients. An infusion of the tops has also been advantageously employed in the same manner. The Swedes prepare an extract from the berries, probably of the nature of the rob above mentioned, which some eat for breakfast. In Germany the berries are bruised and put into the sauce made use of for a wild boar; and are frequently also eaten with other pork, to give it a wild-boar flavour. In Carniola, and some other districts, the inhabitants make a kind of wine of them steeped in water; but it is difficult to prevent this liquor from growing sour. The Laplanders, as we are told by Linnæus, drink

256 B.m.c.

Junius.

infusions of the juniper berries as we do tea and coffee. Thrushes and grouse feed on the berries, and disseminate the seed in their dung. It is remarkable that the berries of the juniper are two years in ripening. They sometimes appear in an uncommon form; the leaves of the cup grow double the usual size, approaching, but not closing; and the three petals fit exactly close, so as to keep the air from the *tipula juniperi* which inhabit them.—The whole plant has a strong aromatic smell. The wood when burnt emits a fragrant odour like incense. It is of a reddish colour, very hard and durable; and when large enough, is used in marquetry and veneering, and in making cups, cabinets, &c. Grass will not grow beneath juniper, but this tree itself is said to be destroyed by the meadow-oat. The oil of juniper mixed with that of nuts makes an excellent varnish for pictures, wood-work, and preserving iron from rusting. The resin powdered and rubbed into paper prevents the ink from sinking through it, for which it is frequently used under the name of POUNCE.—The charcoal made from this wood endures longer than any other, inasmuch that live embers are said to have been found in the ashes after being a year covered.—For the properties of some other species, see the articles SANDARACH (*Gum*), and OLIBANUM.

JUNIUS (Adrian), one of the most learned men of the age in which he lived, was born at Horn in Holland in 1511. He travelled into all parts of Europe, and practised physic with reputation in England; where, among other works, he composed a Greek and Latin Lexicon, to which he added above 6500 words; an Epithalamium on the marriage of queen Mary with king Philip of Spain; and *Animadversa & de Coma Commentarius*, which is the most applauded of all his works. He died in 1575.

JUNIUS (Francis), professor of divinity at Leyden, was born at Bourges in 1545, of a noble family, and studied some time at Lyons. Bartholomew Aneau, who was principal of the college in that city, gave him excellent instructions with regard to the right method of studying. He was remarkable for being proof against all temptations to lewdness; but a libertine so far overpowered him by his sophistry, that he made him an atheist: however, he soon returned to his first faith; and, averse as he was to unlawful love, he had no aversion to matrimony, but was married no less than four times. He was employed in public affairs by Henry IV.; and at last was invited to Leyden to be professor of divinity, which employment he discharged with honour, till he was snatched away by the plague in 1602. Du Pin says, he was a learned and judicious critic. He wrote, in conjunction with Emmanuel Tremellius, a Latin version of the Hebrew text of the Bible. He also published Commentaries on a great part of the Holy Scriptures; and many other works, all in Latin.

JUNIUS (Francis), or *Francis du Jon*, the son of the preceding, was born at Heidelberg in 1589. He at first designed to devote himself to a military life; but after the truce concluded in 1609, he applied himself entirely to study. He came to England in 1620, and lived 30 years in the earl of Arundel's family. He was greatly esteemed not only for his profound erudition, but also for the purity of his manners; and was

so passionately fond of the study of the northern languages, that, being informed there were some villages in Friesland where the ancient language of the Saxons was preserved, he went and lived two years in that country. He returned to England in 1675; and after spending a year at Oxford, retired to Windsor, in order to visit Vossius, at whose house he died in 1677. The university of Oxford, to which he bequeathed his manuscripts, erected a very handsome monument to his memory. He wrote, 1. *De Pictura Veterum*, which is admired by all the learned; the best edition of it is that of Rotterdam in 1694. He published the same work at London in English. 2. An explication of the old Gothic manuscript, called the *Silver* one, because the four Gospels are there written in silver Gothic letters; this was published with notes by Thomas Marschal, or Marshal. 3. A large Commentary on the Harmony of the four Gospels by Tatian, which is still in manuscript. 4. A Glossary in five languages, in which he explains the origin of the Northern languages; published at Oxford in 1745, in folio, by Mr Edward Lee.

JUNK, in sea-language, a name given to any remnants or pieces of old cable, which is usually cut into small portions, for the purpose of making points, matts, gaskets, fennit, &c.

JUNO, in pagan worship, was the sister and wife of Jupiter, and the goddess of kingdoms and riches; and also styled the *queen of heaven*: she presided over marriage and child-birth, and was represented as the daughter of Saturn and Rhea. She married Jupiter; but was not the most complaisant wife: for, according to Homer, that god was sometimes obliged to make use of all his authority to keep her in due subjection; and the same author observes, that on her entering into a conspiracy against him, he punished her by suspending her in the air with two anvils fastened to her feet, and golden manacles on her hands, which all the other deities looked on without a possibility of helping her. However, her jealousy made her frequently find opportunities of interrupting her husband in the course of his amours; and prompted her to punish with unrelenting fury Europa, Semele, Io, Latona, and the rest of his mistresses. Jupiter himself having conceived without any commerce with a female, Juno, in revenge, conceived Vulcan by the wind, Mars by touching a flower pointed out to her by the goddess Flora, and Hebe by eating greedily of lettuces.

Juno, as the queen of heaven, preserved great state: her usual attendants were Terror and Boldness, Castor, Pollux, and 14 nymphs; but her most faithful attendant was the beautiful Iris, or the rainbow. Homer describes her in a chariot adorned with precious stones, the wheels of which were of ebony, and which was drawn by horses with reins of gold. But she is more commonly painted drawn by peacocks. She was represented in her temple at Corinth, seated on a throne, with a crown on her head, a pomegranate in one hand, and in the other a sceptre with a cuckoo on its top. This statue was of gold and ivory.

Some mythologists suppose that Juno signifies the air: others, that she was the Egyptian Isis; who being represented under various figures, was by the Greeks and Romans represented as so many distinct deities.

Junk,
Juno.

Junonalia

Jupiter.

JUNONALIA, a festival observed by the Romans in honour of Juno. It was instituted on account of certain prodigies that happened in Italy, and was celebrated by matrons. In the solemnity two white cows were led from the temple of Apollo into the city thro' the gate called *Carmentalis*, and two images of Juno, made of cypress, were born in procession. Then marched 27 girls, habited in long robes, singing an hymn to the goddess; then came the Decemviri, crowned with laurel, in vestments edged with purple. This pompous company, going through the *Vicus Jugarius*, had a dance in the great field of Rome; from thence they proceeded through the *Forum Boarium* to the temple of Juno, where the victims were sacrificed by the Decemviri, and the cypress images were left standing. This festival is not mentioned in the *fasti* of Ovid, but is fully described by Livy, lib. 7. dec. 3. The hymn used upon the occasion was composed by Livius the poet.

JUNTO, in matters of government, denotes a select council for taking cognizance of affairs of great consequence, which require secrecy.

In Spain and Portugal, it signifies much the same with convention, assembly, or board among us: thus we meet with the junto of the three estates, of commerce, of tobacco, &c. See **BOARD**, &c.

IVORY, in natural history, &c. a hard, solid, and firm substance, of a white colour, and capable of a very good polish. It is the tusk of the elephant*; and is hollow from the base to a certain height, the cavity being filled up with a compact medullary substance, seeming to have a great number of glands in it. It is observed, that the Ceylon ivory, and that of the island of Achem, do not become yellow in the wearing, as all other ivory does; for this reason the teeth of these places bear a larger price than those of the coast of Guinea.

Hardening, Softening, and Staining, of Ivory. See **BONES** and **HORNS**.

JUPITER, the supreme god of the ancient pagans. The theologists, according to Cicero, reckoned up three Jupiters; the first and second of whom were born in Arcadia; of these two, the one sprang from *Æther*, the other from *Cœlus*. The third Jupiter was the son of Saturn, and born in Crete, where they pretended to show his sepulchre. Cicero in other places speaks of several Jupiters who reigned in different countries. The Jupiter, by whom the poets and divines understand the supreme god, was the son of Saturn king of Crete. He would have been devoured by his father as soon as born, had not his mother Rhea substituted a stone instead of the child, which Saturn immediately swallowed. Saturn took this method to destroy all his male children, because it had been foretold by *Cœlus* and *Terra*, that one of his sons should deprive him of his kingdom. Jupiter, being thus saved from his father's jaws, was brought up by the Curetes in a den on mount Ida. Virgil tells us, that he was fed by the bees; out of gratitude for which, he changed them from an iron to a golden colour. Some say, that his nurses were Amalthæa and Melissa, who gave him goats milk and honey; and others, that Amalthæa was the name of the goat which nourished him, and which, as a reward for her great services, was changed into a constellation. According to others, he was fed by wild pigeons, who brought

him ambrosia from Oceanus; and by an eagle, who carried nectar in his beak from a steep rock: for which he rewarded the former, by making them the foretellers of winter and summer; and the last by giving him immortality, and making him his thunder-bearer. When grown up, he drove his father out of heaven, and divided the empire of the world with his brothers. For himself, he had heaven and earth. Neptune had the sea and waters; and Pluto hell. The Titans undertook to destroy Jupiter, as he had done his father. These Titans were giants, the sons of Titan and the Earth. They declared war against Jupiter, and heaped mountains upon mountains, in order to scale heaven: but their efforts were unsuccessful. Jupiter overthrew them with his thunder, and shut them up under the waters and mountains, from which they were not able to get out.

Jupiter had several wives: the first of whom, named *Metis*, he is said to have devoured when big with child, by which he himself became pregnant; and Minerva issued out of his head, completely armed and fully grown. His second was Themis; the name of his third is not known; his fourth was the celebrated Juno, whom he deceived under the form of a cuckoo, which to shun the violence of a storm fled for shelter to her lap. He was the father of the Muses and Graces; and had a prodigious number of children by his mistresses. He metamorphosed himself into a satyr to enjoy Antiope; into a bull, to carry off Europa; into a swan, to abuse Leda; into a shower of gold, to corrupt Danaë; and into several other forms to gratify his passions. He had Bacchus by Semele, Diana and Apollo by Latona, and was the father of Mercury and the other gods.

The heathens in general believed that there was but one supreme God: but when they considered this one great being as influencing the affairs of the world, they gave him as many different names; and hence proceeded their variety of nominal gods. When he thundered or lightened, they called him *Jupiter*; when he calmed the sea, *Neptune*; when he guided their councils, *Minerva*; and when he gave them strength in battle, *Mars*. In process of time they used different representations of this Jupiter, &c. and considered them, vulgarly at least, as so many different persons. They afterward regarded each of them in different views: e. g. The Jupiter that showered down blessings, was called the *Kind Jupiter*; and when punishing, the *Terrible Jupiter*. There was also one Jupiter for Europe, and another for Africa; and in Europe, there was one great Jupiter who was the particular friend of the Athenians, and another who was the special protector of the Romans: nay, there was scarce a town or hamlet perhaps, in Italy, that had not a Jupiter of its own; and the Jupiter of Terracina or Jupiter Anxur, represented in medals as young and beardless, with rays round his head, more resembled Apollo than the great Jupiter at the Capitol. In this way Jupiter at length had temples and different characters almost every where: at Carthage, he was called *Ammon*; in Egypt, *Serapis*; at Athens, the great Jupiter was the Olympian Jupiter; and at Rome the greatest Jupiter was the Capitoline Jupiter, who was the guardian and benefactor of the Romans, and whom they called the "best and greatest Jupiter;" *Jupiter optimus*

Jupiter.

* See *Elephas*.

Jupiter. maximus. The figure of this Jupiter was represented in his chief temple on the Capitoline hill, as sitting on a curule chair, with the fulmen or thunder, or rather lightning, in one hand, and a sceptre in the other. This fulmen in the figures of the old artists was always adapted to the character under which they were to represent Jupiter. If his appearance was to be mild and calm, they gave him the conic fulmen or bundle of flames wreathed close together, held down in his hand: When punishing, he holds up the same figure, with two transverse darts of lightning, sometimes with wings added to each side of it, to denote its swiftness; this was called by the poets the three-forked bolt of Jove: and when he was going to do some exemplary execution, they put in his hand a handful of flames, all let loose in their utmost fury; and sometimes filled both his hands with flames. The superiority of Jupiter was principally manifested in that air of majesty which the ancient artists endeavoured to express in his countenance: particular attention was paid to the head of hair, the eye-brows, and the beard. There are several heads of the mild Jupiter on ancient seals; where his face has a mixture of dignity and ease in it, admirably described by Virgil, *Æn.* i. v. 256. The statues of the Terrible Jupiter were generally of black marble, as those of the former were of white: the one sitting with an air of tranquillity; the other standing, more or less disturbed. The face of the one is pacific and serene; of the other angry or clouded. On the heads of the one the hair is regular and composed; in the other it is so discomposed, that it falls half-way down the forehead. The face of the Jupiter Tonans resembles that of the Terrible Jupiter; he is represented on gems and medals as holding up the triple bolt in his right hand, and standing in a chariot, which seems to be whirled on impetuously by four horses. Thus he is also described by the poets. Ovid. *Deian.* Herc. v. 28. Horace lib. i. od. 4. v. 8. Jupiter, as the intelligence, presiding over a single planet, is represented only in a chariot and pair: on all other occasions, if represented in a chariot, he is always drawn by four horses. Jupiter is well known as the chief ruler of the air, whose particular province was to direct the rains, the thunders, and the lightnings. As the dispenser of rain, he was called *Jupiter Pluvius*: under which character he is exhibited seated in the clouds, holding up his right hand, or extending his arms almost in a straight line each way, and pouring a stream of hail and rain from his right hand upon the earth; whilst the fulmen is held down in his left. The wings that are given him relate to his character of presiding over the air; his hair and beard in the Antonine pillar are all spread down by the rain, which descends in a sheet from him, and falls for the refreshment of the Romans; whilst their enemies are represented as struck with the lightnings, and lying dead at their feet.

Some consider a great part of the fable of Jupiter to include the history of Noah and his three sons; and that Saturn is Noah, who saw all mankind perish in the waters of the deluge; and who, in some sort, swallowed them up, by not receiving them into the ark. Jupiter is Ham; Neptune Japheth; and Shem, Pluto.

The Titans, it is thought, represent the old giants, who built the tower of Babel, and whose pride an

presumption God had confounded, by changing their language, and pouring out the spirit of discord and division among them. The name of *Jupiter*, or *Jovis Pater*, is thought to be derived from Jehovah, pronounced with the Latin termination *Jovis* instead of *Jova*; and in medals we meet with *Jovis* in the nominative, as well as oblique cases: for example *Jovis custos*, *Jovis propugnator*, *Jovis flator*. To the name *Jovis* was added *pater*; and afterwards instead of "*Jovis pater*", *Jupiter* was used by abbreviation.

The name *Jupiter* was not known to the Hebrews till the reign of Alexander the Great, and the kings his successors. Antiochus Epiphanes commanded the idol of Jupiter Olympius to be placed in the temple at Jerusalem; and that of Jupiter the defender of strangers in the temple on mount Gerizim. 2 Macc. vi. 2. While St Paul and St Barnabas were at Lystra, they were taken for gods, because they cured one who had been lame from his birth, and that by an expression only: St Paul was taken for Mercury, by reason of his eloquence; and St Barnabas for Jupiter (*Acts* xiv. 11, 12.), on account probably of his good mein.

JUPITER, 4, in astronomy, one of the superior planets, remarkable for its brightness; and which by its proper motion seems to revolve round the earth in about twelve years. See *ASTRONOMY-Index*.

JURA, one of the Hebrides, or Western Islands of Scotland, lying opposite to Knapdale in Argyleshire, is supposed to be about 34 miles long and 10 broad. It is the most rugged of all the Hebrides; and is composed chiefly of vast mountains, naked, and without a possibility of cultivation. Some of the south and western sides only are improveable, and in good seasons as much bear and oats are raised as will maintain the inhabitants; though by the distillation, as Mr Pennant supposes, of their grain, they sometimes want. Bear produces four or five fold, and oats three fold. Sloes are the only fruits of the island. An acid for punch is here made from the berries of the mountain-ash; and a kind of spirit is also distilled from them. Necessity hath instructed the inhabitants in the use of native dyes. Thus the juice of the tops of heath boiled supplies them with a yellow; the roots of the white water-lily with a dark-brown; those of the yellow water iris with a black; and the galium verum, *ru* of the islanders, with a very fine red, not inferior to madder. On the hills is some pasture for cattle; and the produce, when Mr Pennant visited the island, amounted to about 300 or 400 head of black cattle, sold annually at 3l. each to graziers who come for them; about 100 horses also sold annually; a few sheep with fleeces of a most excellent quality, and great numbers of goats. The other animals of Jura are about 100 stags; though these must formerly have been much more numerous, as the original name of the island was *Deir-ay*, or the *isle of deer*, so called by the Norwegians on account of the abundance of deer found in it. Here also Mr Pennant had some obscure account of a worm that, in a less pernicious degree, resembles the *FURIA infernalis* of Linnaeus. The *fillan*, a little worm of Jura, small as a thread, and not an inch in length, insinuates itself under the skin, causes a redness and great pain, flies swiftly from place to place; but is cured by a poultice of cheese and honey. Of the mountains of Jura, those from

Jupiter, Jura.

Jura, from their shape called the *paps*, are the most remarkable. There are only three very large ones; the biggest, called *Beinn-an-air*, or the *mountain of gold*, lies farthest to the north; the second is called *Beinn-sheunta*, or the *hallowed mountain*; and the third, *Beinn-a-chaois*, or the *mountain of the fount*, is the least of the three. Mr Pennant ascended the first with great labour and difficulty. It is composed of vast stones, covered with mosses near the base; but all above bare and unconnected with each other. The whole, he says, seems a *cairn*, the work of the sons of Saturn. The grandeur of the prospect from the top abundantly made amends for the fatigue of ascending the mountain. Jura itself afforded a stupendous scene of rock, varied with innumerable little lakes. From the west side of the hill ran a narrow stripe of rock terminating in the sea, and called the *slide of the old hag*. To the south appeared Ilay extended like a map beneath his feet; and beyond that the north of Ireland; to the east two other islands, Cntyre, Arran, and the frith of Clyde bounded by Ayrshire; an amazing tract of mountains to the north-east as far as *Ben-lomond*; *Skarba* finished the northern view; and over the western ocean were scattered Colonsay and Oransay, Mull, Iona, and its neighbouring isles; and still further, the long extents of Tirey and Col, just apparent. The other paps are seen very distinctly, but all of them inferior in height. Mr Banks and his friends mounted that to the south, and found the height to be 2359 feet; but this is far overtopped by *Beinn-an-air*. The stones of this mountain are white, a few red, quartz, and composed of small grains; but some are *breciated* or filled with crystalline kernels of an amethystine colour. The other stones of the island are, a cinereous slate, veined with red, and used here as a white-stone; a micaceous sand-stone; and between the small isles and Arfin, a micaceous quartz rock-stone. On the west side of the island there is an anchoring-place called *Whitfarlan*; towards the north end is a bay called *Da'l yaul*; and on the same coast is formed another riding-place for vessels among several small islands. Between the north end of Jura and the small isle of *Skarba*, there is a famous whirlpool, called *Cory-Vrekan*, from Brekan, son to a king of Denmark, who perished in this gulph. His body being cast ashore on the north side of Jura, was buried in a cave, and his grave is still distinguished by a tombstone and altar. In this vortex, which extends about a mile in breadth, the sea begins to boil and ferment with the tide of flood, increasing gradually to a number of whirlpools, which, in the form of pyramids, spout up the water with a great noise, as high as the mast of a small vessel, agitated into such a foam as makes the sea appear white even at the distance of two leagues. About half flood the violence begins to decrease, and continues to do so till about half an hour after high-water: then it boils as before, till within an hour of low-water, when the smallest fishing-boat may cross it without danger.

Jura is furnished with many rivalets and springs of excellent water, and the air is remarkably healthy; its salubrity being increased by the high situation, perpetually fanned by breezes. It is, however, but ill-peopled; and did not contain above 700 or 800 inhabitants at the time it was visited by Mr Pennant. The women are prolific, and very often bear twins. The

inhabitants live to a great age, and are liable to few distempers. Men of 90 can work; and there was then living a woman of 80, who could run down a sheep. The inhabitants are all Protestants, but addicted to some superstitions. The parish is supposed to be the largest in Great Britain, and the duty the most dangerous and troublesome: it consists of Jura, Oransay, Colonsay, Skarba, and several little isles divided by narrow and dangerous sounds; forming a length of not less than 60 miles; supplied by only one minister and an assistant.

The very old clans of Jura are the *Mac-ilvuys* and the *Mac-raines*: but it seems to have changed masters more than once. In 1549, Donald of Cntyre, Macguillayne of Doward, Macguillayne of Kinloch-buy, and Macduffie of Colonsay, were the proprietors: Maclean of Mull had also a share in 1586. At present it belongs to the duke of Argyle, Mr Macneil of Colonsay, and Mr Campbell of Shawfield.

JURA is also the name of a chain of mountains in Switzerland, beginning in the canton of Zurich, extending from thence along the Rhine into the canton and bishopric of Basle, stretching into the canton of Soleura and the principality of Neuchatel, and branching out towards the Pays de Vaud; separating that country from Frenche Comte and Burgundy, and continued beyond the Genevan territories as far as the Rhone. Many elevated valleys are formed by different parts of this chain in the country of the Pays de Vaud; among which one of the most remarkable is the valley of the lake of Joux, on the top of that part of the chain named Mount Joux. It contains several populous villages, and is beautifully diversified with wood, arable land, and pasture. It is watered by two lakes; the largest of which is that of Joux already mentioned. This has one shore of a high rock covered with wood; the opposite banks forming a gentle ascent, fertile and well cultivated; behind which is a ridge covered with pines, beech, and oak wood. The smaller lake, named *Brenet*, is bordered with fine corn-fields and villages; and the stream which issues from it is lost in a gulf named *Entonnoir*, or the *Funnel*, where the people have placed several mills which are turned by the force of the falling current. The river Orbe issues from the other side of the mountain, about two miles from this place; and probably owes its origin to the subterraneous stream just mentioned. The largest lake is supplied by a rivulet which issues from the bottom of a rock, and loses itself in it. The valley contains about 3000 inhabitants, remarkable for their industry. Some are watch-makers; but the greatest number employ themselves in polishing crystals, granites, and marcasites. The country is much infested with bears and wolves. In ascending to this place there is a very extensive prospect of great part of the Pays de Vaud, the lake of Geneva, and that of Neuchatel, which from that high point of view appear to be nearly on a level; though M. de Luc found the latter to be 159 feet above the level of the lake of Geneva.

JURATS, JURATI, magistrates in the nature of ALDERMEN, for the government of several corporations. Thus we meet with the mayor and jurats of Maidstone, Rye, Winchelsea, &c.—So also Jersey has a bailiff and twelve jurats, or sworn assistants, to govern the island.

IVREA,

Ivrea
Juriscon-
sultus.

IVREA, an ancient and strong town of Italy, in Piedmont, and capital of Canavez, with a strong fort, a bishop's see, the title of a marquisate, and an ancient castle. It is subject to the king of Sardinia, and seated on the river Doria between two hills, in E. Long. 7. 48. N. Lat. 45. 12.

JURIEU (Peter), an eminent French Protestant divine, called ironically by the papists the *Goliath* of the Protestants, was born in 1637. He was educated in England under his maternal uncle Peter du Moulin, and took orders in the English church; but returning to succeed his father as pastor of a reformed congregation at Mer in the diocese of Blois, he was made professor of divinity and Hebrew at Sedan, where he acquired great reputation. This university being taken from the Protestants, a professorship of divinity was founded for him at Rotterdam; and he was also appointed minister of the Walloon church in the same town. Being now in a place of liberty, he gave full scope to an imagination naturally warm, and applied himself to study the book of Revelation, of which he fancied he had by a kind of inspiration discovered the true meaning; a notion that led him to many enthusiastical conjectures. He was moreover so unfortunate as to quarrel with his best friends for opposing his visionary opinions, which produced violent disputes between him and Messrs Bayle and de Beauval. He died in 1713; and left a great number of esteemed works behind him.

JURIN (Dr James), a distinguished person, who cultivated medicine and mathematics with equal success. He was secretary of the Royal Society in London, as well as president of the College of Physicians there. He had great disputes with Michelloti upon the moment of running-waters, with Robins upon distinct vision, and with the partizans of Leibnitz upon moving bodies. A treatise of his "upon Vision" is printed in Smith's "Optics." He died in 1750.

JURISCONSULTUS (*Ictus*), among the Romans, was a person learned in the law; a master of the Roman jurisprudence; who was consulted on the interpretation of the laws and customs, and on the difficult points in law-suits. The fifteen books of the Digests were compiled wholly from the answers or reports of the ancient jurisconsulti. Tribonianus, in destroying the 2000 volumes from whence the code and Digest were taken, has deprived the public of a world of things which would have given them light into the ancient office of the jurisconsulti. We should scarce have known any thing beyond their bare names, had not Pomponius, who lived in the second century, taken care to preserve some circumstances of their office.

The Roman jurisconsulti seem to have been the same with our chamber-counsellors, who arrived at the honour of being consulted through age and experience, but never pleaded at the bar. Their pleading advocates or lawyers never became jurisconsulti. See ADVOCATE.

In the times of the commonwealth, the advocati had by much the more honourable employment, as being in the ready way to attain the highest preferments. They then despised the jurisconsulti, calling them in derision *formularii* and *legulei*, as having invented certain forms and monosyllables, in order to give their

answers the greater appearance of gravity and mystery. Jurisdiction But in process of time they became so much esteemed, that they were called *prudentes* and *sapientes*, and the emperors appointed the judges to follow their advice. Augustus advanced them to be public officers of the empire; so that they were no longer confined to the petty counsels of private persons.—Bern. Rutilius has written the lives of the most famous jurisconsulti who have lived within these 2000 years.

JURISDICTION, a power or authority, which a man has to do justice in cases of complaint made before him. There are two kinds of jurisdiction, the one *ecclesiastical*, the other *secular*.

Secular JURISDICTION, belongs to the king and his justices or delegates. The courts and judges at Westminster have jurisdiction all over England, and are not restrained to any county or place; but all other courts are confined to their particular jurisdictions, which if they exceed, whatever they do is erroneous. There are three sorts of inferior jurisdictions; the first is *tene-re placita*, to hold pleas, and the plaintiff may sue either there or in the king's courts. Another is the conu-fance of pleas, where a right is invested in the lord of the franchise to hold pleas: and he is the only person that can take advantage of it, by claiming his franchise. The third sort is an exempt jurisdiction, as where the king grants to some city, that the inhabitants shall be sued within their city and not elsewhere; though there is no jurisdiction that can withstand a *certiorari* to the superior courts.

Ecclesiastical JURISDICTION belongs to bishops and their deputies.

Bishops, &c. have two kinds of jurisdiction; the one *internal*, which is exercised over the conscience in things purely spiritual; and this they are supposed to hold immediately of God.

The other is *contentious*, which is a privilege some princes have given them in terminating disputes between ecclesiastics and laymen.

JURISPRUDENCE, the science of what is just or unjust; or the knowledge of laws, rights, customs, statutes, &c. necessary for the administration of justice. See LAW.

JUROR, JURATOR, in a legal sense, is one of those twenty-four or twelve men who are sworn to deliver truth upon such evidence as shall be given them touching any matter in question. The punishment of petty jurors attainted of giving a verdict contrary to evidence, willingly, is very severe.

JURY, a certain number of men sworn to enquire into and try a matter of fact, and to declare the truth upon such evidence as shall appear before them.

Juries are, in these kingdoms, the supreme judges in all courts and in all causes in which either the life, property, or reputation, of any man is concerned: this is the distinguishing privilege of every Briton, and one of the most glorious advantages of our constitution; for as every one is tried by his peers, the meanest subject is as safe and as free as the greatest. See the article TRIAL.

Jury-Mast, whatever is set up in room of a mast that has been lost in a storm or an engagement, and to which a lesser yard, ropes, and sails, are affixed.

JUS CORONÆ. See HEREDITARY Right, and SUCCESSION.

Jus

Jus
||
Just.

Jus Deliberandi, in Scots law, that right which an heir has by law of deliberating for a certain time whether he will represent his predecessor.

Jus Devolutum, in Scots law, the right of the church, of presenting a minister to a vacant parish, in case the patron shall neglect to use that right within the time limited by law.

Jus Mariti, in Scots law, the right the husband acquires to his wife's moveable estate, in virtue of the marriage.

Jus Relictæ, in Scots law, the right the wife has in the goods in communion, in case of the previous decease of the husband.

Jus Preventionis, in Scots law, the preferable right of jurisdiction acquired by a court, in any cause to which other courts are equally competent, by having exercised the first act of jurisdiction.

Jus Civile, amongst the Romans, signified no more than the interpretation given by the learned, of the laws of the twelve tables, though the phrase now extends to the whole system of the Roman laws.

Jus Civitatis, signifies freedom of the city of Rome, which intitled those persons who had obtained it to most of the privileges of Roman citizens—yet it differs from *Jus Quiritium*, which extended to all the advantages which a free native of Rome was intitled to—the difference is much the same as betwixt *denization* and *naturalization* with us.

Jus Honorarium, was a name given to those Roman laws which were made up of edicts of the supreme magistrates, particularly the *prætors*.

Jus Imaginis, was the right of using pictures and statues amongst the Romans, and had some resemblance to the right of bearing a coat-of-arms amongst us. This honour was allowed to none but those whose ancestors or themselves had borne some *curule office*, that is, had been *Curule Ædile*, *Censor*, *Prætor*, or *Consul*.

The use of statues, &c. which the *Jus Imaginis* gave, was the exhibiting them in funeral processions, &c. See *IMAGE*.

Jus Papirianum, was the laws of Romulus, Numa, and other kings of Rome, collected into a body by Sextus Papirius, who lived in the time of Tarquin the Proud, which accounts for the name.

Jus Trium Liberorum was a privilege granted to such persons in the city of Rome as had three children, by which they were exempted from all troublesome offices. The same exemption was granted to any persons who lived in other parts of Italy, having four children; and those that lived in the provinces, provided they had five (or as some say seven) children, were intitled to the same immunities. This was good policy, and tended to the population of the empire. For a further account of these privileges, See *CHILDREN*.

JUSSICA, in botany: A genus of the monogynia order, belonging to the decandria class of plants; and in the natural method ranking under the 17th order, *Calycanthemæ*. The calyx is quadripartite or quinquepartite superior; there are four or five petals; the capsule quadrilocular or quinquelocular, oblong, opening at the angles; the seeds are numerous and small.

JUST, a sportive kind of combat on horseback, man against man, armed with lances. The word is by

some derived from the French *jouste*, of the Latin *juxta*, because the combatants fought near one another. Salmastius derives it from the modern Greek *zoustra*, or rather *ζουστρα*, which is used in this sense by Nicephorus Gregorius. Others derive it from *justa*, which in the corrupt age of the Latin tongue was used for this exercise, by reason it was supposed a more just and equal combat than the tournament.

The difference between *justs* and tournaments consists in this, that the latter is the genus, of which the former is only a species. Tournaments included all kinds of military sports and engagements made out of gallantry and diversion: *Justs* were those particular combats where the parties were near each other, and engaged with lance and sword. Add, that the tournament was frequently performed by a number of cavaliers, who fought in a body: The *just* was a single combat of one man against another.—Though the *justs* were usually made in tournaments after a general rencounter of all the cavaliers, yet they were sometimes singly, and independent of any tournament. See *TOURNAMENT*.

He who appeared for the first time at a *just*, forfeited his helm or casque unless he had forfeited before at a tournament.

JUSTEL (Christopher), a learned counsellor, and secretary to the French king, was born at Paris in 1580, and applied himself to the study of ecclesiastical history. He maintained a correspondence with the most learned men of his time, as archbishop Usher, Sir Henry Spelman, Blondel, &c. till his death, which happened in 1649. He wrote, 1. The code of the canons of the church universal, and the councils of Africa, with notes. 2. A genealogical history of the house of Auvergne. And, 3. Collections of Greek and Latin canons, from several manuscripts, which formed the *Bibliotheca juris canonici veteris*, published in 2 vols folio, by William Voet and our author's son.

JUSTEL (Henry), son of the foregoing, was born at Paris in 1620. He became secretary and counsellor to the king; and was as distinguished for his own learning as remarkable for encouraging it in others. He came to London in 1681, on the persecution of the Protestants; and was made keeper of the royal library at St James's: which office he held till his death in 1693, when he was succeeded by the famous Dr Bentley. He wrote several books, the titles of which may be seen in the catalogue of the Bodleian library.

JUSTICE, in a moral sense, is one of the four cardinal virtues, which gives every person his due.

Civilians distinguish justice into two kinds; *communicative* and *distributive*. The former establishes fair dealing in the mutual commerce between man and man; and includes sincerity in our discourse, and integrity in our dealings. The effect of sincerity is mutual confidence, so necessary among the members of the same community; and this mutual confidence is sustained and preserved by the integrity of our conduct.

Distributive justice is that by which the differences of mankind are decided, according to the rules of equity. The former is the justice of private individuals; the latter of princes and magistrates.

Fidelity and truth are the foundation of justice. As to

Justel,
Justice.

Justice.

to be perfectly just is an attribute of the Divine Nature, to be so to the utmost of our ability is the glory of man.

The following examples of this virtue are extracted from various authors.

1. Among the several virtues of Aristides, that for which he was most renowned was justice; because this virtue is of most general use, its benefits extending to a greater number of persons, as it is the foundation, and in a manner the soul, of every public office and employment. Hence it was that Aristides, though in low circumstances, and of mean extraction, obtained the glorious surname of the *Just*; a title, says Plutarch, truly royal, or rather truly divine; but of which princes are seldom ambitious, because generally ignorant of its beauty and excellency. They choose rather to be called the conquerors of cities and the thunderbolts of war, preferring the vain honour of pompous titles, which convey no other idea than violence and slaughter, to the solid glory of those expressive of goodness and virtue. How much Aristides deserved the title given him, will appear in the following instances; though it ought to be observed, that he acquired it not by one or two particular actions, but by the whole tenor of his conduct.

Themistocles having conceived the design of supplanting the Lacedemonians, and of taking the government of Greece out of their hands, in order to put it into those of the Athenians, kept his eye and his thoughts continually fixed upon that great project; and as he was not very nice or scrupulous in the choice of his measures, whatever tended towards the accomplishing of the end he had in view he looked upon as just and lawful.

On a certain day then he declared in a full assembly of the people, that he had a very important design to propose; but that he could not communicate it to the people, because its success required it should be carried on with the greatest secrecy: he therefore desired they would appoint a person to whom he might explain himself upon the matter in question. Aristides was unanimously fixed upon by the whole assembly, who referred themselves entirely to his opinion of the affair; so great a confidence had they both in his probity and prudence. Themistocles, therefore, having taken him aside, told him that the design he had conceived was to burn the fleet belonging to the rest of the Grecian states, which then lay in a neighbouring port; and by this means Athens would certainly become mistress of all Greece. Aristides hereupon returned to the assembly, and only declared to them that indeed nothing could be more advantageous to the commonwealth than Themistocles's project, but that at the same time nothing in the world could be more unjust. All the people unanimously ordained that Themistocles should entirely desist from his project.

There is not perhaps in all history a fact more worthy of admiration than this. It is not a company of philosophers (to whom it costs nothing to establish fine maxims and sublime notions of morality in the school) who determine on this occasion that the consideration of profit and advantage ought never to prevail in preference to what is honest and just; but the whole people who are highly interested in the proposal made to

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them, that are convinced it is of the greatest importance to the welfare of the state, and who, however, reject it with unanimous consent, and without a moment's hesitation; and for this only reason, that it is contrary to justice. How black and perfidious, on the other hand, was the design which Themistocles proposed to them, of burning the fleet of their Grecian confederates at a time of entire peace, solely to aggrandize the power of the Athenians! Had he an hundred times the merit ascribed to him, this single action would be sufficient to fully all his glory; for it is the heart, that is to say, integrity and probity, which constitutes and distinguishes true merit.

2. The government of Greece having passed from Sparta to the Athenians, it was thought proper under this new government to lodge in the island of Delos the common treasure of Greece; to fix new regulations with regard to the public money; and to lay such a tax as might be regulated according to the revenue of each city and state, in order that the expences being equally borne by the several individuals who composed the body of the allies, no one might have reason to murmur. The difficulty was to find a person of so honest and incorrupt a mind, as to discharge faithfully an employment of so delicate and dangerous a kind, the due administration of which so nearly concerned the public welfare. All the allies cast their eyes on Aristides; accordingly they invested him with full powers, and appointed him to levy a tax on each of them, relying entirely on his wisdom and justice. The citizens had no cause to repent their choice. He presided over the treasury with the fidelity and disinterestedness of a man who looks upon it as a capital crime to embezzle the smallest portion of another's possessions, with the care and activity of a father of a family in the management of his own estate, and with the caution and integrity of a person who considers the public moneys as sacred. In fine, he succeeded in what is equally difficult and extraordinary, viz. to acquire the love of all in an office in which he who escapes the public odium gains a great point. Such is the glorious character which Seneca gives of a person charged with an employment of almost the same kind, and the noblest eulogium that can be given to such as administer public revenues. It is the exact picture of Aristides. He discovered so much probity and wisdom in the exercise of this office, that no man complained; and those times were considered ever after as the golden age; that is, the period in which Greece had attained its highest pitch of virtue and happiness.

While he was treasurer-general of the republic, he made it appear that his predecessors in that office had cheated the state of vast sums of money, and among the rest Themistocles in particular; for this great man, with all his merit, was not irreproachable on that head; for which reason, when Aristides came to pass his account, Themistocles raised a mighty faction against him, accused him of having embezzled the public treasure, and prevailed so far as to have him condemned and fined. But the principal inhabitants, and the most virtuous part of the citizens, rising up against so unjust a sentence, not only the judgment was reversed and the fine remitted, but he was elected treasurer a-

gain

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gain for the year ensuing. He then seemed to repent of his former administration; and by showing himself more tractable and indulgent towards others, he found out the secret of pleasing all that plundered the commonwealth: for as he neither reprov'd them nor narrowly inspect'd their accounts, all these plunderers, grown fat with spoil and rapine, now extolled Aristides to the skies. It would have been easy for him, as we perceive, to have enriched himself in a post of that nature, which seems, as it were, to invite a man to it by the many favourable opportunities it lays in his way; especially as he had to do with officers, who for their part were intent upon nothing but robbing the public, and would have been ready to conceal the frauds of the treasurer their master upon condition he did them the same favour. These very officers now made interest with the people to have him continued a third year in the same employment: but when the time of election was come, just as they were on the point of electing Aristides unanimously, he rose up, and warmly reprov'd the Athenian people: "What (says he), when I managed your treasure with all the fidelity and diligence an honest man is capable of, I met with the most cruel treatment, and the most mortifying returns; and now that I have abandoned it to the mercy of these robbers of the republic, I am an admirable man and the best of citizens! I cannot help declaring to you, that I am more ashamed of the honour you do me this day, than I was of the condemnation you pass'd against me this time twelvemonth; and with grief I find that it is more glorious with us to be complaisant to knaves than to save the treasures of the republic." By this declaration he silenced the public plunderers and gained the esteem of all good men.

3. In the Universal History we meet with the following remarkable instance of a scrupulous regard to justice in a Persian king named Nouchirvan. Having been out a-hunting, and desirous of eating some of the venison in the field, several of his attendants went to a neighbouring village and took away a quantity of salt to season it. The king suspecting how they had acted, ordered that they should immediately go and pay for it. Then turning to his attendants, he said, "This is a small matter in itself, but a great one as it regards me: for a king ought ever to be just, because he is an example to his subjects; and if he swerves in trifles, they will become dissolute. If I cannot make all my people just in the smallest things, I can at least show them it is possible to be so."

These examples, to which many more might be added, are highly pleasing to a sagacious and virtuous mind; but the sensual and brutal part of mankind, who regard only the present moment, who see no objects but those which fall under the cognizance of the corporeal eye, and estimate the merit of every action by the gain which it produces, have always considered justice and utility as independent of each other. They put utility in the balance against honesty every day; and never fail to incline the beam in favour of the former, if the supposed advantage is thought to be considerable. They have no regard to justice but as they reckon to gain by it, or at least not to lose; and are always ready to desert it when it exposes them to any danger or threatens them with any loss. From this

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disposition of mind proceeds that avidity of wealth and that habitual fraud which perpetually embroil civil society: from this fatal source arises that deluge of iniquity which has overflowed the world; from this preference of interest to honesty proceed every unjust litigation and every act of violence. And yet nothing is more certain than that "Whatever is unjust must, upon the whole, be disadvantageous;" which might be proved thus:

Nothing is advantageous or useful but that which has a tendency to render us happy: the highest advantage, or absolute utility, is complete happiness; and to this happiness, whatever is advantageous or useful is relative as to an ultimate end; and nothing that is not thus relative to happiness can properly be said to be advantageous or useful. But whatever is unjust, so far from tending to promote, that it destroys our happiness; for whatever is unjust is contrary to the Divine will: but it is not possible that we should become happy by resisting that will; because of this will our happiness is the immediate object. God is not a tyrant, proud of incontrollable power, who imposes capricious laws only as tests of our obedience, and to make us feel the weight of his yoke; all his precepts are lessons which teach us how to be happy. But it is the will of God that we should be just; from whence it follows, that no true happiness can be acquired by those who are unjust. An action, therefore, which is contrary to the will of God, must be inconsistent with our true interest; and consequently, so far from being useful or expedient, it must inevitably produce ruin and misery. Injustice sometimes meets with the punishment it deserves in this world; but if it should escape here, it does not follow that it will for ever escape. It proves, on the contrary, that there is another world in which the fates of mankind will be impartially decided.

But to prevent the dreadful confusion which the mistaken notion of interest had introduced among mankind, it became necessary to have recourse to the innate principles of justice; to suspend the balance and display the sword, for the determination of differences and the punishment of guilt. This is the reason and origin of distributive justice, which became the necessary appendage of sovereignty. Accordingly in ancient times, princes administered justice in person and without delay; but at length being embarrassed and oppressed by the multiplicity of business which increased with their dominions, or diverted from their attention to civil government by the command of armies, certain laws were established with great solemnity to adjust and determine the differences which might arise among the members of the same community, and to repress the insolence of those who dared to violate the public peace, by possessing them with the dread either of corporeal punishment or infamy. The execution of these laws was put into the hands of subordinate judges. These delegates of the sovereign power were called magistrates; and these are the persons by whom justice is at this time administered, except in particular cases, in which the sovereign himself interferes. But by whomsoever this kind of justice is administered, it ought to be done speedily, impartially, and without expence to the parties.

4. Aristides being judge between two private persons,

Justice.

sons, one of them declared, that his adversary had greatly injured Aristides. "Relate rather, good friend (said he, interrupting him), what wrong he hath done thee; for it is thy cause, not mine, that I now sit judge of."—Again: Being desired by Simonides, a poet of Chios, who had a cause to try before him, to stretch a point in his favour, he replied, "As you would not be a good poet if your lines ran contrary to the just measures and rules of your art; so I should neither be a good judge nor an honest man if I decided aught in opposition to law and justice."

5. Artabazanes, an officer of Artaxerxes king of Persia, begged his majesty to confer a favour upon him; which if complied with would be an act of injustice. The king being informed that the promise of a considerable sum of money was the only motive that induced the officer to make so unreasonable a request, ordered his treasurer to give him thirty thousand daricuses, being a present of equal value with that which he was to have received. Giving him the order for the money, "Here, take (says the king) this token of my friendship for you: a gift of this nature cannot make me poor; but complying with your request would make me poor indeed, for it would make me unjust."

6. Cambyzes king of Persia was remarkable for the severity of his government and his inexorable regard to justice. This prince had a particular favourite whom he made a judge; and this judge reckoned himself so secure in the credit he had with his master, that without any more ado causes were bought and sold in the courts of judicature as openly as provisions in the market. But when Cambyzes was informed of these proceedings, enraged to find his friendship so ungratefully abused, the honour of his government prostituted, and the liberty and property of his subjects sacrificed to the avarice of his wretched minion, he ordered him to be seized and publicly degraded; after which he commanded his skin to be stripped over his ears, and the seat of judgment to be covered with it as a warning to others. At the same time, to convince the world that this severity proceeded only from the love of justice, he permitted the son to succeed his father in the honours and office of prime minister.

7. When Charles duke of Burgundy, surnamed the *Bold*, reigned over spacious dominions, now swallowed up by the power of France, he heaped many favours and honours upon Claudius Rynsault, a German, who had served him in his wars against the insults of his neighbours. The prince himself was a person of singular humanity and justice; and being prepossessed in favour of Rynsault, upon the decease of the governor of the chief town of Zealand gave him that command. He was not long seated on that government before he cast his eyes upon Sapphira, a woman of exquisite beauty, the wife of Paul Danvelt, a wealthy merchant of the city, under his protection and government. Rynsault was a man of a warm constitution, and violent inclination to women. He knew what it was to enjoy the satisfactions which are reaped from the possession of beauty; but was an utter stranger to the decencies, honours, and delicacies, that attend the passion toward them in elegant minds. He could with his tongue utter a passion with which his heart was wholly untouched. In short, he was

one of those brutal minds which can be gratified with the violation of innocence and beauty, without the least pity, passion, or love for that with which they are so much delighted.

Rynsault being resolved to accomplish his will on the wife of Danvelt, left no arts untried to get into a familiarity at her house; but she knew his character and disposition too well not to shun all occasions that might ensnare her into his conversation. The governor, despairing of success by ordinary means, apprehended and imprisoned her husband, under pretence of an information that he was guilty of a correspondence with the enemies of the duke to betray the town into their possession. This design had its desired effect; and the wife of the unfortunate Danvelt, the day before that which was appointed for his execution, presented herself in the hall of the governor's house, and as he passed through the apartment threw herself at his feet, and holding his knees, beseeched his mercy. Rynsault beheld her with a dissembled satisfaction; and assuming an air of thought and authority, he bid her rise, and told her she must follow him to his closet; and asking her whether she knew the hand of the letter he pulled out of his pocket? went from her, leaving this admonition aloud: "If you would save your husband, you must give me an account of all you know, without prevarication; for every body is satisfied that he is too fond of you to be able to hide from you the names of the rest of the conspirators, or any other particulars whatsoever." He went to his closet, and soon after the lady was sent for to an audience. The servant knew his distance when matters of state were to be debated; and the governor, laying aside the air with which he had appeared in public, began to be the suppliant, and to rally an affliction which it was in her power easily to remove. She easily perceived his intention; and, bathed in tears, began to deprecate so wicked a design. Lust, like ambition, takes all the faculties of the mind and body into its service and subjection. Her becoming tears her honest anguish, the wringing of her hands, and the many changes of her posture and figure in the vehemence of speaking, were but so many attitudes in which he beheld her beauty, and farther incentives of his desire. All humanity was lost in that one appetite; and he signified to her in so many plain terms, that he was unhappy till he possessed her, and nothing less should be the price of her husband's life; and she must, before the following noon, pronounce the death or enlargement of Danvelt. After this notification, when he saw Sapphira enough distracted to make the subject of their discourse to common eyes appear different from what it was, he called his servants to conduct her to the gate. Loaded with insupportable affliction, she immediately repairs to her husband, and having signified to the gaolers that she had a proposal to make to her husband from the governor, she was left alone with him, revealed to him all that had passed, and represented the endless conflict she was in between love to his person and fidelity to his bed. It is easy to imagine the sharp affliction this honest pair was in upon such an incident, in lives not used to any but ordinary occurrences. The man was bridled by shame from speaking what his fear prompted upon so near an approach of death; but let fall

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fall words that signified to her, he should not think her polluted, though she had not confessed to him that the governor had violated her person, since he knew her will had no part in the action. She parted from him with this oblique permission, to save a life he had not resolution enough to resign for the safety of his honour.

The next morning the unhappy Sapphira attended the governor, and being led into a remote apartment, submitted to his desires. Rynsault commended her charms; claimed a familiarity after what had passed between them; and with an air of gaiety, in the language of a gallant, bid her return and take her husband out of prison: but, continued he, my fair one must not be offended that I have taken care he should not be an interruption to our future assignations. These last words foreboded what she found when she came to the gaol, her husband executed by the order of Rynsault.

It was remarkable, that the woman, who was full of tears and lamentations during the whole course of her affliction, uttered neither sigh nor complaint, but stood fixed with grief at this consummation of her misfortunes. She betook herself to her abode; and, after having in solitude paid her devotions to Him who is the avenger of innocence, she repaired privately to court. Her person, and a certain grandeur of sorrow negligent of forms, gained her passage into the presence of the duke her sovereign. As soon as she came into the presence, she broke forth into the following words: "Behold, O mighty Charles, a wretch weary of life, though it has always been spent with innocence and virtue. It is not in your power to redress my injuries, but it is to avenge them; and if the protection of the distressed, and the punishment of oppressors, is a task worthy of a prince, I bring the duke of Burgundy ample matter for doing honour to his own great name, and of wiping infamy off mine." When she had spoken this, she delivered to the duke a paper reciting her story. He read it with all the emotion that indignation and pity could raise in a prince jealous of his honour in the behaviour of his officers and the prosperity of his subjects.

Upon an appointed day Rynsault was sent for to court, and in the presence of a few of the council confronted by Sapphira. The prince asking, "Do you know that lady?" Rynsault, as soon as he could recover his surprise, told the duke he would marry her, if his highness would please to think that a reparation. The duke seemed contented with this answer, and stood by during the immediate solemnization of the ceremony. At the conclusion of it he told Rynsault, "Thus far you have done as constrained by my authority: I shall not be satisfied of your kind usage of her, without you sign a gift of your whole estate to her after your decease." To the performance of this also the duke was a witness. When these two acts were executed, the duke turning to the lady, told her, "It now remains for me to put you in quiet possession of what your husband has so bountifully bestowed on you;" and ordered the immediate execution of Rynsault.

8. One of the greatest of the Turkish princes was Mamood, or Mahmud, the Gaznevide. His name is still venerable in the east; and of the noble parts of his

character, a regard to justice was not the least. Of this the following example is related by Mr Gibbon in his *Decline and Fall of the Roman Empire*.—As he sat in the divan, an unhappy subject bowed before the throne to accuse the insolence of a Turkish soldier who had driven him from his house and bed. "Suspend your clamours (said Mahmud); inform me of his next visit, and ourself in person will judge and punish the offender." The sultan followed his guide; invested the house with his guards; and extinguishing the torches, pronounced the death of the criminal, who had been seized in the act of rapine and adultery. After the execution of his sentence, the lights were re-kindled, and Mahmud fell prostrate in prayer; then rising from the ground, he demanded some homely fare, which he devoured with the voraciousness of hunger. The poor man, whose injury he had avenged, was unable to suppress his astonishment and curiosity; and the courteous monarch condescended to explain the motives of this singular behaviour. "I had reason to suspect that none except one of my sons could dare to perpetrate such an outrage; and I extinguished the lights, that my justice might be blind and inexorable. My prayer was a thanksgiving on the discovery of the offender; and so painful was my anxiety, that I had passed three days without food since the first moment of your complaint."

9. In Bourgoane's Travels in Spain, vol. iii. the following anecdote is given of Peter III. of Castile. A canon of the cathedral of Seville, affected in his dress, and particularly in his shoes, could not find a workman to his liking. An unfortunate shoemaker, to whom he applied after quitting many others, having brought him a pair of shoes not made to please his taste, the canon became furious, and seizing one of the tools of the shoemaker, gave him with it so many blows upon the head as laid him dead upon the floor. The unhappy man left a widow, four daughters, and a son 14 years of age, the eldest of the indigent family. They made their complaints to the chapter: the canon was prosecuted and condemned not to appear in the choir for a year. The young shoemaker having attained to man's estate, was scarcely able to get a livelihood; and overwhelmed with wretchedness, sat down on the day of a procession at the door of the cathedral of Seville in the moment the procession passed by. Amongst the other canons he perceived the murderer of his father. At the sight of this man, filial affection, rage, and despair, got so far the better of his reason, that he fell furiously upon the priest, and stabbed him to the heart. The young man was seized, convicted of the crime, and immediately condemned to be quartered alive. Peter, whom we call the *Cruel*, and whom the Spaniards, with more reason, call the *lover of justice*, was then at Seville. The affair came to his knowledge; and after learning the particulars, he determined to be himself the judge of the young shoemaker. When he proceeded to give judgment, he first annulled the sentence just pronounced by the clergy; and after asking the young man what profession he was, "I forbid you (said he) to make shoes for a year to come."

10. In Gladwin's History of Indostan, a singular fact is related of the emperor Jehangir, under whose father Akber the Mogul empire in Hindostan first ob-

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tained any regular form. Jehangir succeeded him at Agra on the 22d of October 1605; and the first order which he issued on his accession to the throne was for the construction of the golden chain of *justice*. It was made of pure gold, and measured 30 yards, consisting of 60 links, weighing four maunds of Hindostan (about 400 pounds avoirdupois). One end of the chain was suspended from the royal bastion of the fortrefs of Agra, and the other fastened in the ground near the side of the river. The intention of this extraordinary invention was, that if the officers of the courts of law were partial in their decisions, or dilatory in the administration of justice, the injured parties might come themselves to this chain; and making a noise by shaking the links of it, give notice that they were waiting to represent their grievances to his majesty."

JUSTICE is also an appellation given to a person deputed by the king to administer justice to his subjects, whose authority arises from his deputation, and not by right of magistracy.

Of these justices there are various kinds in England; viz.

Chief Justice of the King's Bench, is the capital justice of Great Britain, and is a lord by his office. His business is chiefly to hear and determine all pleas of the crown; that is, such as concern offences against the crown, dignity, and peace of the king; as treasons, felonies, &c. This officer was formerly not only chief justice, but also chief baron for the exchequer, and master of the court of wards. He usually sat in the king's palace, and there executed that office, formerly performed *per comitem palatii*; he determined in that place all the differences happening between the barons and other great men. He had the prerogative of being viceregent of the kingdom whenever the king went beyond sea, and was usually chosen to that office out of the prime nobility; but his power was reduced by king Richard I. and king Edward I. His office is now divided, and his title changed from *capitalis Angliæ justitiarius*, to *capitalis justitiarius ad placita, coram rege tenenda*, or *capitalis justitiarius banci regii*.

Chief Justice of the Common Pleas, he who with his assistants hears and determines all causes at the common law; that is to say, all civil causes between common persons, as well personal as real; and he is also a lord by his office.

Justice of the Forest, is a lord by his office, who has power and authority to determine offences committed in the king's forests, &c. which are not to be determined by any other court of justice. Of these there are two; whereof one has jurisdiction over all the forests on this side Trent, and the other beyond it.

By many ancient records, it appears to be a place of great honour and authority, and is never bestowed but on some person of great distinction. The court where this justice sits is called the *justice seat of the forest*, held once every three years, for hearing and determining all trespasses within the forest, and all claims of franchises, liberties, and privileges, and all pleas and causes whatsoever therein arising. This court may fine and imprison for offences within the forest, it being a court of record; and therefore a writ of error lies from hence to the court of king's bench. The last court of justice seat of any note was that held in the reign

of Charles I. before the earl of Holland. After the restoration another was held for form sake before the earl of Oxford; but since the revolution in 1688, the forest laws have fallen into total disuse, to the great advantage of the subject.

This is the only justice who may appoint a deputy: he is also called *justice in eyre of the forest*.

Justices of Assise, were such as were wont by special commission to be sent into this or that county to take assises, for the ease of the subjects. For, whereas these actions pass always by jury, so many men might not without great damage and charge be brought up to London; and therefore justices, for this purpose, by commissions particularly authorised, were sent down to them. These continue to pass the circuit by two and two twice every year through all England, except the four northern counties, where they go only once, dispatching their several businesses by several commissions; for they have one commission to take assises, another to deliver gaols; and another of oyer and terminer. In London and Middlesex a court of general gaol-delivery is held eight times in the year.

All the justices of peace of any county wherein the assises are held, are bound by law to attend them, or else are liable to a fine; in order to return recognizances, &c. and to assist the judges in such matters as lie within their knowledge and jurisdiction, and in which some of them have been probably concerned, by way of previous examination. See ASSISES and JURY.

Justices in Eyre (*justiciarii itinerantes, or errantes*), were those who were anciently sent with commission into divers counties to hear such causes especially as were termed *pleas of the crown*; and that for the ease of the subject, who must else have been hurried to the courts of Westminster, if the cause were too high for the county-courts.

According to some, these justices were sent once in seven years; but others will have them to have been sent oftener. Camden says, they were instituted in the reign of king Henry II. A. D. 1184; but they appear to be of an older date.

They were somewhat like our justices of assise at this day; though for authority and manner of proceeding very different.

Justices of Gaol-Delivery, those commissioned to hear and determine causes appertaining to such as for any offence are cast into prison. Justices of gaol-delivery are empowered by the common law to proceed upon indictments of felony, trespass, &c. and to order execution or reprieve; and they have power to discharge such prisoners as upon their trials shall be acquitted; also all such against whom, on proclamation made, no evidence appears to indict; which justices of oyer and terminer, &c. may not do. 2. Hawk. 24, 25. But these justices have nothing to do with any person not in the custody of the prison except in some special cases; as if some of the accomplices to a felony may be in such prison and some of them out of it, the justices may receive an appeal against those who are out of the prison as well as those who are in it; which appeal, after the trial of such prisoners, shall be removed into B. R. and process issue from them against the rest. But if those out of prison be omitted in the appeal, they can never be put into any other; because there

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there can be but one appeal for one felony. In this way the gaols are cleared, and all offenders tried, punished, or delivered, in every year.—Their commission is now turned over to the justices of assize.

JUSTICES of Nisi Prius are now the same with *justices of assize*. It is a common adjournment of a cause in the common pleas to put it off to such a day, *Nisi prius iustitiarum venerint ad eas partes ad capiendas assisas*: from which clause of adjournment they are called *justices of nisi prius*, as well as *justices of assize*, on account of the writ and actions they have to deal in.

JUSTICES of Oyer and Terminer, were justices deputed on some special occasions to hear and determine particular causes.—The commission of oyer and terminer is directed to certain persons upon any insurrection, heinous demeanour, or trespass committed, who must first enquire, by means of the grand jury or inquest, before they are empowered to hear and determine by the help of the petit jury. It was formerly held, that no judge or other lawyer could act in the commission of oyer and terminer, or in that of gaol-delivery, within the county where he was born or inhabited; but it was thought proper by 12 Geo. II. cap. 27. to allow any man to be a justice of oyer and terminer and general gaol-delivery within any county of England.

JUSTICES of the Peace are persons of interest and credit, appointed by the king's commission to keep the peace of the county where they live.

Of these some for special respect are made of the quorum, so as no business of importance may be dispatched without the presence or assent of them or one of them. However, every justice of peace hath a separate power, and his office is to call before him, examine, issue warrants for apprehending, and commit to prison, all thieves, murderers, wandering rogues; those that hold conspiracies, riots, and almost all delinquents which may occasion the breach of the peace and quiet of the subject; to commit to prison such as cannot find bail, and to see them brought forth in due time to trial; and bind over the prosecutors to the assizes. And if they neglect to certify examinations and informations to the next gaol-delivery, or do not bind over prosecutors, they shall be fined. A justice may commit a person that doth a felony in his own view, without warrant; but if on the information of another, he must make a warrant under hand and seal for that purpose. If complaint and oath be made before a justice of goods stolen, and the informer, suspecting that they are in a particular house, shows the cause of his suspicion, the justice may grant a warrant to the constable, &c. to search in the place suspected, to seize the goods and person in whose custody they are found, and bring them before him or some other justice. The search on these warrants ought to be in the day-time, and doors may be broke open by constables to take the goods. Justices of peace may make and persuade an agreement in petty quarrels and breaches of the peace, where the king is not intitled to a fine, though they may not compound offences or take money for making agreements. A justice hath a discretionary power of binding to the good behaviour; and may require a recognizance, with a great penalty of one, for his keeping of the peace, where the party bound is a dangerous person, and likely to break the peace, and do much mischief; and for default of sureties he may be committed to gaol. But a man giving secu-

rity for keeping the peace in the king's bench or chancery, may have a *superfedeas* to the justices in the county not to take security; and also by giving surety of the peace to any other justice. If one make an assault upon a justice of peace, he may apprehend the offender, and commit him to gaol till he finds sureties for the peace; and a justice may record a forcible entry on his own possession: in other cases he cannot judge in his own cause. Contempts against justices are punishable by indictment and fine at the sessions. Justices shall not be regularly punished for any thing done by them in sessions as judges; and if a justice be tried for any thing done in his office, he may plead the general issue, and give the special matter in evidence; and if a verdict is given for him, or the plaintiff be nonsuit, he shall have double costs; and such action shall only be laid in the county where the offence was committed. 7. Jac. cap. 5. 21 Jac. cap. 12. But if they are guilty of any misdemeanour in office, information lies against them in the king's bench, where they shall be punished by fine and imprisonment; and all persons who recover a verdict against a justice for any wilful or malicious injury, are intitled to double costs. By 24 Geo. II. cap. 44. no writ shall be sued out against any justice of peace, for any thing done by him in the execution of his office, until notice in writing shall be delivered to him one month before the suing out of the same, containing the cause of action, &c. within which month he may tender amends; and if the tender be found sufficient, he shall have a verdict, &c. Nor shall any action be brought against a justice for any thing done in the execution of his office, unless commenced within six months after the act committed.

A justice is to exercise his authority only within the county where he is appointed by his commission, not in any city which is a county of itself or town corporate, having their proper justices, &c. but in other towns and liberties he may. The power and office of justices terminate in six months after the demise of the crown, by an express writ of discharge under the great seal, by writ of *superfedeas*, by a new commission, and by accession of the office of sheriff or coroner.

The original of justices of the peace is referred to the fourth year of Edward III. They were first called *conservators*, or *wardens of the peace*, elected by the county, upon a writ directed to the sheriff; but the power of appointing them was transferred by statutes from the people to the king; and under this appellation appointed by 1 Edw. III. cap. 16. Afterwards the statute 34 Edw. III. cap. 1. gave them the power of trying felonies, and then they acquired the appellation of *justices*. They are appointed by the king's special commission under the great seal, the form of which was settled by all the judges, A. D. 1590; and the king may appoint as many as he shall think fit in every county in England and Wales, though they are generally made at the discretion of the lord chancellor, by the king's leave. At first the number of justices was not above two or three in a county. 18 Edw. III. cap. 2. Then it was provided by 34 Edw. III. cap. 1. that one lord, and three or four of the most worthy men in the county, with some learned in the law, should be made justices in every county. The number was afterwards restrained first to six, and then to eight, in every county, by 12 Ric. II. cap. 10. and 14 Ric. II.

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cap. 11. But their number has greatly increased since their first institution. As to their qualifications, the statutes just cited direct them to be of the best reputation and most worthy men in the county; and the statute 13 Ric. II. cap. 7. orders them to be of the most sufficient knights, esquires, and gentlemen of the law; and by 2 Hen. V. stat. 1. cap. 4. and stat. 2. cap. 1. they must be resident in their several counties. And by 18 Hen. VI. cap. 11. no justice was to be put in commission, if he had not lands to the value of 20 l. *per annum*. It is now enacted by 5 Geo. II. cap. 11. that every justice shall have 100 l. *per annum*, clear of all deductions; of which he must make oath by 18 Geo. II. cap. 20. And if he acts without such qualification, he shall forfeit 100 l. It is also provided by 5 Geo. II. that no practising attorney, solicitor, or proctor, shall be capable of acting as a justice of the peace.

Justices of Peace within Liberties, are justices of the peace who have the same authority in cities or other corporate towns as the others have in counties; and their power is the same; only that these have the assize of ale and beer, wood and victuals, &c. Justices of cities and corporations are not within the qualification act, 5 Geo. II. cap. 18.

Fountain of Justice, one of the characters or attributes of the king. See PREROGATIVE.

By the fountain of justice the law does not mean the *author* or *original*, but only the *distributor*. Justice is not derived from the king, as from his *free gift*; but he is the steward of the public, to dispense it to whom it is *due*. He is not the spring, but the reservoir; from whence right and equity are conducted, by a thousand channels, to every individual. The original power of judicature, by the fundamental principles of society, is lodged in the society at large: but as it would be impracticable to render complete justice to every individual, by the people in their collective capacity, therefore every nation has committed that power to certain select magistrates, who with more ease and expedition can hear and determine complaints; and in England this authority has immemorially been exercised by the king or his substitutes. He therefore has alone the right of erecting courts of judicature: for though the constitution of the kingdom hath entrusted him with the whole executive power of the laws, it is impossible, as well as improper, that he should personally carry into execution this great and extensive trust: it is consequently necessary that courts should be erected, to assist him in executing this power; and equally necessary, that, if erected, they should be erected by his authority. And hence it is, that all jurisdictions of courts are either mediately or immediately derived from the crown, their proceedings run generally in the king's name, they pass under his seal, and are executed by his officers.

It is probable, and almost certain, that in very early times, before our constitution arrived at its full perfection, our kings in person often heard and determined causes between party and party. But at present, by the long and uniform usage of many ages, our kings have delegated their whole judicial power to the judges of their several courts; which are the grand depository of the fundamental laws of the kingdom, and have gained a known and stated jurisdiction, regulated by certain and established rules, which the

crown itself cannot now alter but by act of parliament.

And in order to maintain both the dignity and independence of the judges in the superior courts, it is enacted by the statute 13 W. III. c. 2. that their commissions shall be made (not, as formerly, *durante beneplacito*, but) *quamdiu bene se gesserint*, and their salaries ascertained and established; but that it may be lawful to remove them on the address of both houses of parliament. And now, by the noble improvements of that law in the statute of 1 Geo. III. c. 23. enacted at the earnest recommendation of the king himself from the throne, the judges are continued in their offices during their good behaviour, notwithstanding any demise of the crown (which was formerly held immediately to vacate their seats), and their full salaries are absolutely secured to them during the continuance of their commissions; his majesty having been pleased to declare, that "he looked upon the independence and uprightness of the judges, as essential to the impartial administration of justice; as one of the best securities of the rights and liberties of his subjects; and as most conducive to the honour of the crown."

In criminal proceedings or prosecutions for offences, it would still be a higher absurdity, if the king personally sat in judgment; because in regard to these he appears in another capacity, that of *prosecutor*. All offences are either against the king's peace or his crown and dignity; and are so laid in every indictment. For though in their consequences they generally seem (except in the case of treason and a very few others) to be rather offences against the kingdom than the king; yet, as the public, which is an invisible body, has delegated all its power and rights, with regard to the execution of the laws, to one visible magistrate, all affronts to that power, and breaches of those rights, are immediately offences against him, to whom they are so delegated by the public. He is therefore the proper person to prosecute for all public offences and breaches of the peace, being the person injured in the eye of the law. And this notion was carried so far in the old Gothic constitution (wherein the king was bound by his coronation oath to conserve the peace), that in case of any forcible injury offered to the person of a fellow-subject, the offender was accused of a kind of perjury, in having violated the king's coronation oath; *dicebatur fregisse juramentum regis juratum*. And hence also arises another branch of the prerogative, that of *pardoning* offences; for it is reasonable, that he only who is injured should have the power of forgiving. See PARDON.

In this distinct and separate existence of the judicial power, in a peculiar body of men, nominated indeed, but not removeable at pleasure, by the crown, consists one main preservative of the public liberty; which cannot subsist long in any state, unless the administration of common justice be in some degree separated both from the legislative and also from the executive power. Were it joined with the legislative, the life, liberty, and property, of the subject would be in the hands of arbitrary judges, whose decisions would be then regulated only by their own opinions, and not by any fundamental principles of law; which, though legislators may depart from, yet judges are bound to observe. Were it joined with the executive, this union might soon be an over-balance for the legislative. For which reason, by the statute of 16 Car. I. c. 10. which

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abolished the court of star-chamber, effectual care is taken to remove all judicial power out of the hands of the king's privy-council; who, as then was evident from recent instances, might soon be inclined to pronounce that for law which was most agreeable to the prince or his officers. Nothing therefore is more to be avoided in a free constitution, than uniting the provinces of a judge and a minister of state. And indeed, that the absolute power, claimed and exercised in a neighbouring nation, is more tolerable than that of the eastern empires, is in a great measure owing to their having vested the judicial power in their parliaments; a body separate and distinct from both the legislative and executive: and if ever that nation recovers its former liberty, it will owe it to the efforts of those assemblies. In Turkey, where every thing is centered in the sultan or his ministers, despotic power is in its meridian, and wears a more dreadful aspect.

A consequence of this prerogative is the legal ubiquity of the king. His majesty, in the eye of the law, is always present in all his courts, though he cannot personally distribute justice. His judges are the mirror by which the king's image is reflected. It is the regal office, and not the royal person, that is always present in court, always ready to undertake prosecutions or pronounce judgment, for the benefit and protection of the subject. And from this ubiquity it follows, that the king can never be nonsuit; for a nonsuit is the desertion of the suit or action by the non-appearance of the plaintive in court. For the same reason also, in the forms of legal proceedings, the king is not said to appear by his attorney, as other men do; for he always appears, in contemplation of law, in his own proper person.

From the same original, of the king's being the fountain of justice, we may also deduce the prerogative of issuing proclamations, which is vested in the king alone. See PROCLAMATION.

JUSTICE-Seat. See FOREST Courts.

JUSTICIA, MALABAR-NUT: A genus of the monogynia order, belonging to the diandria class of plants; and in the natural method ranking under the 40th order, *Personate*. The corolla is ringent; the capsule bilocular, parting with an elastic spring at the heel; the stamina have only one anthera. There are 19 species, all of them natives of the East Indies, growing many feet high; some adorned with fine large leaves, others with small narrow ones, and all of them with monopetalous ringent flowers. Only two species are cultivated in our gardens, viz. the *adhatoda* or common Malabar-nut, and the *hyssopifolia* or snap-tree. The first grows ten or twelve feet high, with a strong woody stem, branching out widely all around; having large, lanceolate, oval leaves, placed opposite; and from the ends of the branches short spikes of white flowers, with dark spots, having the helmet of the corolla concave. The second hath a shrubby stem branching from the bottom pyramidally three or four feet high; spear-shaped, narrow, entire leaves, growing opposite; and white flowers, commonly by threes, from the sides of the branches; succeeded by capsules, which burst open with elastic force for the discharge of the seeds; whence the name of *snap-tree*. Both species flower here in summer, but never produce any fruit. They are propagated by

layers and cuttings, and require the same treatment with other tender exotics.

JUSTICIAR, in the old English laws, an officer instituted by William the Conqueror; as the chief officer of state, who principally determined in all cases civil and criminal. He was called in Latin *Capitalis Justiciarius totius Angliæ*. For JUSTICIAR in Scotland, See LAW, n° clvi. 10—12.

JUSTICIARY, or Court of JUSTICIARY, in Scotland. See LAW, n° clvi. 10—12.

JUSTIFICATION, in law, signifies a maintaining or showing a sufficient reason in court why the defendant did what he is called to answer. Pleas in justification must set forth some special matter: thus, on being sued for a trespass, a person may justify it by proving, that the land is his own freehold; that he entered a house in order to apprehend a felon; or by virtue of a warrant, to levy a forfeiture, or in order to take a distress; and in an assault, that he did it out of necessity.

JUSTIFICATION, in theology, that act of grace which renders a man just in the sight of God, and worthy of eternal happiness. See THEOLOGY.

The Romanists and Reformed are extremely divided about the doctrine of justification; the latter contending for justification by faith alone, and the former by good works.

JUSTIN, a celebrated historian, lived, according to the most probable opinion, in the second century, under the reign of Antoninus Pius. He wrote, in elegant Latin, an abridgment of the history of Trogus Pompeius; comprehending the actions of almost all nations, from Ninus the founder of the Assyrian empire to the emperor Augustus. The original work, to the regret of the learned, is lost: this abridgment, being written in a polite and elegant style, was probably the reason why that age neglected the original. The best editions of Justin are, *ad usum Delphini*, in 4to; and *cum notis variorum et Gronovii* in 8vo.

JUSTIN (St), commonly called *Justin Martyr*, one of the earliest and most learned writers of the eastern church, was born at Neapolis, the ancient Sechem of Palestine. His father Priscus, a Gentile Greek, brought him up in his own religion, and had him educated in all the Grecian learning. To complete his studies he travelled to Egypt; and followed the sect of Plato, with whose intellectual notions he was much pleased. But one day walking by the sea-side, wrapt in contemplation, he was met by a grave ancient person of a venerable aspect; who, falling into discourse with him, turned the conversation by degrees from the excellence of Platonism to the superior perfection of Christianity; and reasoned so well, as to raise in him an ardent curiosity to inquire into the merits of that religion; in consequence of which inquiry, he was converted about the year 132. On his embracing that religion, he quitted neither the profession nor the habit of a philosopher: but a persecution breaking out under Antoninus, he composed *An Apology for the Christians*; and afterwards presented another to the emperor Marcus Aurelius, in which he vindicated the innocence and holiness of the Christian religion against Crescens a Cynic philosopher, and other calumniators. He did honour to Christianity by his learning and

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and the purity of his manners; and suffered martyrdom in 167. Besides his two Apologies, there are still extant his *Dialogue with Trypho*, a Jew; two treatises addressed to the Gentiles, and another on the unity of God. Other works are also ascribed to him. The best editions of St Justin are those of Robert Stephens, in 1551 and 1571, in Greek and Latin: that of Morel, in Greek and Latin, in 1656; and that of Don Prudentius Marandus, a learned Benedictine, in 1742 in folio. His style is plain, and void of all ornament.

JUSTINIAN I. son of Justin the elder, was made Cæsar and Augustus in 527, and soon after emperor. He conquered the Persians by Belisarius his general, and exterminated the Vandals; regained Africa; subdued the Goths in Italy; defeated the Moors; and restored the Roman empire to its primitive glory. See (History of) CONSTANTINOPLE, n° 93—97. and ITALY, n° 12, &c.

The empire being now in the full enjoyment of a profound peace and tranquillity, Justinian made the best use of it, by collecting the immense variety and number of the Roman laws into one body. To this end, he selected ten of the most able lawyers in the empire; who, revising the Gregorian, Theodosian, and Hermogenian codes, compiled one body, called *Codex Justinianus*. This may be called the *statute law*, as consisting of the rescripts of the emperors. But the reduction of the other part was a much more difficult task: it was made up of the decisions of the judges and other magistrates, together with the authoritative opinions of the most eminent lawyers; all which lay scattered, without any order, in no less than 2000 volumes and upwards. These were reduced to the number of 50; but ten years were spent in the reduction. However, the design was completed in the year 529, and the name of *Digests* or *Pandects* given to it. Besides these, for the use chiefly of young students in the law to facilitate that study, Justinian ordered four books of institutes to be drawn up, containing an abstract or abridgement of the text of all the laws: and, lastly, the laws of modern date, posterior to that of the former, were thrown into one volume in the year 529, called the *Novellæ*, or New Code.

This emperor died in the year 565, aged 83, in the 39th of his reign, after having built a great number of churches; particularly the famous Sancta Sophia at Constantinople, which is esteemed a masterpiece of architecture.

JUSTINIANI (St Laurence), the first patriarch of Venice, was born there of a noble family in 1381. He was a very pious prelate, and died in 1485; he left several pieces of piety, which were printed together at Lyons in 1568, in one volume folio, with his life prefixed by his nephew. Clement VII. beatified him in 1524, and he was canonized by Alexander VIII. in 1690.

JUSTINIANI (Bernard), was born at Venice in 1408. He obtained the senator's robe at the age of 19, served the republic in several embassies, and was elected procurator of St Mark in 1474. He was a learned man, and wrote the *History of Venice*, with some other works of considerable merit; and died in 1498.

N° 171.

JUSTINIAN (Augustin), bishop of Nebo, one of the most learned men of his time, was descended from a branch of the same noble family with the two foregoing; and was born at Genoa in 1480. He assisted at the fifth council of Lateran, where he opposed some articles of the concordat between France and the court of Rome. Francis I. of France made him his almoner; and he was for five years regius professor of Hebrew at Paris. He returned to Genoa in 1522, where he discharged all the duties of a good prelate; and learning and piety flourished in his diocese. He perished at sea in his passage from Genoa to Nebbio, in 1536. He composed several pieces; the most considerable of which is, *Psalterium Hebraicum, Græcum, Arabicum, et Chaldaicum, cum tribus Latinis interpretationibus et glossis*. This was the first psalter of the kind printed; and there is also ascribed to the same prelate a translation of Maimonides's *Moore Nevochim*.

JUSTNESS, the exactness or regularity of any thing.

Justness is chiefly used in speaking of thought, language, and sentiments. The justness of a thought consists in a certain precision or accuracy, by which every part of it is perfectly true, and pertinent to the subject. Justness of language consists in using proper and well chosen terms; in not saying either too much or too little. M. de Mere, who has written on justness of mind, distinguishes two kinds of justness; the one arising from taste and genius, the other from good sense or right reason. There are no certain rules to be laid down for the former, viz. to show the beauty and exactness in the turn or choice of a thought; the latter consists in the just relation which things have to one another.

JUTES, the ancient inhabitants of Jutland in Denmark.

JUTLAND, a large peninsula, which makes the principal part of the kingdom of Denmark. It is bounded on the south-east by the duchy of Holstein, and is surrounded on the other sides by the German ocean and the Baltic sea. It is about 180 miles in length from north to south, and 50 in breadth from east to west. The air is very cold but wholesome; and the soil is fertile in corn and pastures, which feed a great number of bees, that are sent to Germany, Holland, and elsewhere. This was anciently called the *Cimbrian Chersonesus*, and is supposed to be the country from whence the Saxons came into England. It is divided into two parts, called *North* and *South Jutland*: the latter is the duchy of Sleswick, and lies between North Jutland and the duchy of Holstein; and the duke of that name is in possession of part of it, whose capital town is Gottorp, for which reason the sovereign is called the *duke of Holstein Gottorp*.

JUVENAL (Decius Junius), the celebrated Roman satyrist, was born about the beginning of the emperor Claudian's reign, at Aquinum in Campania. His father was probably a freed-man, who, being rich, gave him a liberal education, and, agreeably to the taste of the times, bred him up to eloquence; in which he made a great progress, first under Fronto the grammarian, and afterwards, as is generally conjectured, under Quintilian; after which he attended the bar, and made a distinguished figure there for many years by his eloquence. In the practice of this profession he

Justiniani
||
Juvenal.

Justice
||
Juxon.

he had improved his fortune and interest at Rome before he turned his thoughts to poetry, the very style of which, in his satires, speaks a long habit of declamation; *subactum redolent declamatorem*, say the critics. It is said he was above 40 years of age when he recited his first essay to a small audience of his friends; but being encouraged by their applause, he ventured a greater publication: which reaching the ears of Paris, Domitian's favourite at that time, though but a pantomime player, whom our satyrists had severely insulted, that minion made his complaint to the emperor; who sent him thereupon into banishment, under pretence of giving him the command of a cohort in the army, which was quartered at Pentapolis, a city upon the frontiers of Egypt and Libya.

After Domitian's death, our satyrists returned to Rome, sufficiently cautioned not only against attacking the characters of those in power, under arbitrary princes, but against all personal reflections upon the great men then living; and therefore he thus wisely concludes the debate he is supposed to have maintained for a while with a friend on this head, in the first satire, which seems to be the first that he wrote after his banishment:

*Experiar quid concedatur in illos
Quorum Flaminia tegitur cinis atque Latina.*

"I will try what liberties I may be allowed with those whose ashes lie under the Flaminian and Latin ways," along each side of which the Romans of the first quality used to be buried.—It is believed that he lived till the reign of Adrian in 128. There are still extant 16 of his satires, in which he discovers great wit, strength, and keenness, in his language: but his style is not perfectly natural; and the obscenities with which these satires were filled render the reading of them dangerous to youth.

JUVENCUS (Caius Vecticus Aquilinus), one of the first of the Christian poets, was born of an illustrious family in Spain. About the year 320 he put the life of Jesus Christ into Latin verse, of which he composed four books. In this work he followed almost word for word the text of the four evangelists: but his verses are written in a bad taste, and his Latin is not pure.

JUVENTAS, in mythology, the goddess who presided over youth among the Romans. This goddess was long honoured in the Capitol, where Servius Tullius erected her statue. Near the chapel of Minerva there was the altar of Juventas, and upon this altar a picture of Proserpine. The Greeks called the goddess of youth *Hebe*; but it has been generally supposed that this was not the same with the Roman *Juventas*.

JUXON (Dr William), born at Chichester in 1682, was bred at Merchant-Taylor's school, and from thence elected into St John's college Oxford, of which he became president. King Charles I. made him bishop of London; and in 1635 promoted him to the post of lord high treasurer of England. The whole nation, and especially the nobility, were greatly offended at this high office being given to a clergyman; but he behaved so well in the administration, as soon put a stop to all the clamour raised against him. This place he held no longer than the 17th of May 1641, when

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he prudently resigned the staff, to avoid the storm which then threatened the court and the clergy. In the following February, an act passed depriving the bishops of their votes in parliament, and incapacitating them from any temporal jurisdiction. In these leading steps, as well as the total abolition of the episcopal order which followed, he was involved with his brethren; but neither as bishop nor as treasurer was a single accusation brought against him in the long parliament. During the civil wars, he resided at his palace at Fulham, where his meek, inoffensive, and genteel behaviour, notwithstanding his remaining steady in his loyalty to the king, procured him the visits of the principal persons of the opposite party, and respect from all. In 1648, he attended on his majesty at the treaty in the isle of Wight; and by his particular desire, waited upon him at Cotton-house, Westminster, the day after the commencement of his trial; during which he frequently visited him in the office of a spiritual father; and his majesty declared he was the greatest comfort to him in that afflictive situation. He likewise attended his majesty on the scaffold, where the king taking off his cloak and George, gave him the latter: after the execution, our pious bishop took care of the body, which he accompanied to the royal chapel at Windsor, and stood ready with the common-prayer book in his hands to perform the last ceremony for the king; but was prevented by Colonel Whichcot, governor of the castle.—He continued in the quiet possession of Fulham-palace till the ensuing year 1649, when he was deprived, having been spared longer than any of his brethren. He then retired to his own estate in Gloucestershire, where he lived in privacy till the restoration, when he was presented to the see of Canterbury; and in the little time he enjoyed it, expended in buildings and reparations at Lambeth-palace and Croyden-house near 15,000l. He died in 1663; having bequeathed 7000l. to St John's college, and to other charitable uses near 5000l. He published a Sermon on Luke xviii. 31. and Some Considerations upon the Act of Uniformity.

JUXTAPOSITION, is used by philosophers to denote that species of growth which is performed by the apposition of new matter to the surface or outside of old. In which sense it stands opposed to *intussusception*; where the growth of a body is performed by the reception of a juice within it diffused through its canals.

IVY, in botany. See *HEDERA*.

IXIA, in botany: A genus of the monogynia order, belonging to the triandria class of plants; and in the natural method ranking under the 6th order, *Enfata*. The corolla is hexapetalous, patent, and equal; there are three stigmata a little upright and petalous. There are several species, consisting of herbaceous, tuberous, and bulbous-rooted flowery perennials, from one to two feet high, terminated by hexapetalous flowers of different colours. They are propagated by off-sets, which should be taken off in summer at the decay of the leaves: but as all the plants of this genus are natives of warm climates, few of them can bear the open air of this country in winter.

IXION, in fabulous history, king of the Lapithæ, married Dia the daughter of Deionius, to whom he refused

Juxtaposi-
tion
||
Ixion.

Ixora,
Jynx.

refused to give the customary nuptial presents. Deionius in revenge took from him his horses: when Ixion, dissembling his resentment, invited his father-in-law to a feast, and made him fall through a trap-door into a burning furnace, in which he was immediately consumed. Ixion being afterwards stung with remorse for his cruelty, ran mad; on which Jupiter, in compassion, not only forgave him, but took him up into heaven, where he had the impiety to endeavour to corrupt Juno. Jupiter, to be the better assured of his guilt, formed a cloud in the resemblance of the goddess, upon which Ixion begat the centaurs: but boasting of his happiness, Jove hurled him down to Tartarus, where he lies fixed on a wheel encompassed with serpents, which turns without ceasing.

IXORA, in botany: A genus of the monogynia order, belonging to the tetrandria class of plants; and in the natural method ranking under the 47th order, *Stellata*. The corolla is monopetalous, funnel-shaped, and long, superior; the stamina above the throat; the berry tetraspermous.

Plate.
CCLIX.

JYNX, in ornithology, a genus of birds belonging to the order of picæ; the characters of which are, that the bill is slender, round, and pointed; the nostrils are concave and naked; the tongue is very long, very slender, cylindric, and terminated by a hard point; and the feet are formed for climbing. There is only one species, viz. the *torquilla*. The colours of this bird are elegantly pencilled, though its plumage is marked with the plainest kinds: a list of black and ferruginous strokes divides the top of the head and back; the sides of the head and neck are ash-coloured, beautifully traversed with fine lines of black and reddish-brown; the quill-feathers are dusky, but each web

is marked with rust-coloured spots; the chin and breast are of a light yellowish-brown, adorned with sharp-pointed bars of black; the tail consists of ten feathers, broad at their ends and weak, of a pale ash-colour, powdered with black and red, and marked with four equidistant bars of black: the irides are of a yellowish colour.—The wry-neck, Mr Pennant apprehends, is a bird of passage, appearing with us in the spring before the cuckoo. Its note is like that of the kestrel, a quick-repeated squeak; its eggs are white, with a very thin shell; it builds in the hollows of trees, making its nest of dry grafs. It has a very whimsical way of turning and twisting its neck about, and bringing its head over its shoulders, whence it had its Latin name *torquilla*, and its English one of *wry-neck*: it has also the faculty of erecting the feathers of the head like those of the jay. It feeds on ants, which it very dexterously transfixes with the bony and sharp end of its tongue, and then draws them into its mouth; and while the female is sitting, the male has been observed to carry these insects to her.—We find this bird mentioned as an inhabitant throughout Europe, and of many parts of the old Continent. It is in Russia, Sweden, Lapland, Greece, Italy, Babylon, and Bengal; authorities for which Buffon mentions, and says, that at the end of summer this bird grows very fat, when it becomes excellent eating; for which reason some have named it the *Ortolan*. The young ones, while in the nest, will hiss like so many snakes; inso-much that many have been prevented plundering the old ones of their offspring, on supposition that they were advancing their hands on the brood of this loathsome reptile.

Jynx.

K.

K, the tenth letter, and seventh consonant, of our alphabet; being formed by the voice, by a guttural expression of the breath through the mouth, together with a depression of the lower jaw and opening of the teeth.

Its sound is much the same with that of the hard *c*, or *qu*: and it is used, for the most part, only before *e*, *i*, and *n*, in the beginning of words; as *ken*, *kill*, *know*, &c. It used formerly to be always joined with *c* at the end of words, but is at present very properly omitted, at least in words derived from the Latin: thus, for *publick*, *musick*, &c. we say, *public*, *music*, &c. However, in monosyllables, it is still retained, as *jack*, *block*, *mock*, &c.

K is borrowed from the Greek *kappa*; and was but little used among the Latins: Priscian looked on it as a superfluous letter; and says, it was never to be used except in words borrowed from the Greek. Daufiquius, after Sallust, observes, that it was unknown to the ancient Romans.—Indeed we seldom find it in any Latin authors, excepting in the word *kalenda*, where it sometimes stands in lieu of a *c*.—Carthage, however, is frequently spelt on medals with a *K*: SALVIS AUG. ET CAES. FEL. KART. and sometimes the letter *K* alone stood for *Carthage*.—M. Berger has observed, that a capital *K*, on the reverse of the medals of the

emperors of Constantinople, signified *Konstantinus*; and on the Greek medals he will have it to signify ΚΟΙΛΗ ΣΥΡΙΑ, “Coelesyria.”

Quintilian tells us, that in his time some people had a mistaken notion, that wherever the letter *c* and *a* occurred at the beginning of a word, *k* ought to be used instead of the *c*. See C.

Lipsius observes, that *K* was a stigma anciently marked on the foreheads of criminals with a red-hot iron.

The letter *K* has various significations in old charters and diplomas; for instance, KR. stood for *chorus*, KR. C. for *cara civitas*, KRM. for *carmen*, K R. AM. N. *carus amicus noster*, K S. *chaos*, K T. *capite tonsus*, &c.

The French never use the letter *k* excepting in a few terms of art and proper names borrowed from other countries. Ablancourt, in his dialogue of the letters, brings in *k* complaining, that he has been often in a fair way to be banished out of the French alphabet, and confined to the countries of the north.

K is also a numeral letter, signifying 250, according to the verse;

K quoque ducentos & quinquaginta tenebit.

When it had a stroke at top, *K̄*, it stood for 250,000.

K

Kaba
||
Kalendar.

K on the French coinage denotes money coined at Bourdeaux.

KABA. See MECCA.

KADESH, KADESH-BARNEA, or EN-MISHPAT (anc. geog.), a city celebrated for several events. At Kadesh, Miriam the sister of Moses died (Numb. xx. 1.). Here it was that Moses and Aaron, showing a distrust in God's power when they smote the rock at the waters of strife, were condemned to die, without the consolation of entering the promised land (Numb. xxvii. 14.). The king of Kadesh was one of the princes killed by Joshua (xii. 22.). This city was given to the tribe of Judah, and was situated about eight leagues from Hebron to the south.

Mr Wells is of opinion, that this Kadesh, which was situated in the wilderness of Zin, was a different place from Kadesh-barnea in the wilderness of Paran.

KADMONÆI, or CADMONÆI (anc. geog.), a people of Palestine, said to dwell at the foot of mount Hermon; which lies east, and is the reason of the appellation, with respect to Libanus, Phoenicia, and the north parts of Palestine. Called also *Hevai* (Moses).

KÆMPERIA, ZEDOARY, in botany: A genus of the monogynia order, belonging to the monandria class of plants; and in the natural method ranking under the 8th order, *Scitamineæ*. The corolla is separtite, with three of the segments larger than the rest, patulous; and one only bipartite.

Species. 1. The galanga, common galangal, or long zedoary, has tuberous, thick, oblong, fleshy roots; crowned with oval, close-fitting leaves, by pairs, four or five inches long, without footstalks; and between them close-fitting white flowers, with purple bottoms, growing singly. 2. The rotunda, or round zedoary, has thick, fleshy, swelling, roundish, clustering roots, sending up spear-shaped leaves, six or eight inches long, near half as broad, on upright footstalks; and between them, immediately from the roots, rise whitish flowers, tinged with green, red, yellow, and purple, centres. Both these are perennial in root; but the leaves rise annually in spring, and decay in winter. They flower in summer: each flower is of one petal, tubulous below, but plain above, and divided into six parts; they continue three or four weeks in beauty, but are never succeeded by seeds in this country.

Culture. Both these plants must be potted in light rich mould, and always kept in the hot-house, giving in plenty of water in summer, but more sparingly in winter. They are propagated by parting the roots in the spring, just before they begin to push forth new leaves.

Uses. This plant is cultivated with great care by the inhabitants of Siam for the sake of its root; the use of which, says Kempfer, is to remove obstructions of the hypochondria, to warm the stomach, discuss flatulencies, and to strengthen the bowels and the whole nervous system. The root was formerly used in this country in bitter infusions; but is now laid aside, on account of its flavour being disagreeable.

KALENDAR, a distribution of time, accommodated to the uses of life; or a table or almanac, containing the order of days, weeks, months, feasts, &c. happening throughout the year. See TIME, MONTH, YEAR, &c.

It is called *kalendar*, from the word *kalendæ*, anciently wrote in large characters at the head of each month. See KALENDS.

The days in kalendars were originally divided into *octoades*, or eights; but afterwards, in imitation of the Jews, into *hebdomades*, or sevens; which custom, Scaliger observes, was not introduced among the Romans till after the time of Theodosius.

There are divers kalendars, according to the different forms of the year and distributions of time established in different countries. Hence the Roman, the Jewish, the Persian, the Julian, the Gregorian, &c. kalendars.

The ancient Roman kalendar is given by Ricciolus, Struvius, Danet, and others; by which we see the order and number of the Roman holidays and work-days.

The three Christian kalendars are given by Wolfius in his Elements of Chronology.

The Jewish kalendar was fixed by rabbi Hillel about the year 360, from which time the days of their year may be reduced to those of the Julian kalendar.

The Roman KALENDAR owed its origin to Romulus; but it has undergone various reformatations since his time. That legislator distributed time into several periods, for the use of the people under his command: but as he was much better versed in matters of war than of astronomy, he only divided the year into ten months, making it begin in the spring, on the first of March; imagining the sun made his course through all the seasons in 304 days.

Romulus's kalendar was reformed by Numa, who added two months more, January and February; placing them before March: so that his year consisted of 355 days, and began on the first of January. He chose, however, in imitation of the Greeks, to make an intercalation of 45 days, which he divided into two parts; intercalating a month of 22 days at the end of each two years; and at the end of each two years more another of 23 days; which month, thus interposed, he called *Marcedonius*, or the intercalary February.

But these intercalations being ill observed by the pontiffs, to whom Numa committed the care of them, occasioned great disorders in the constitution of the year; which Cæsar, as sovereign pontiff, endeavoured to remedy. To this end, he made choice of Sosigenes, a celebrated astronomer of those times; who found, that the dispensation of time in the kalendar could never be settled on any sure footing without having regard to the annual course of the sun. Accordingly, as the sun's yearly course is performed in 365 days six hours, he reduced the year to the same number of days: the year of this correction of the kalendar was a year of confusion; they being obliged, in order to swallow up the 65 days that had been imprudently added, and which occasioned the confusion, to add two months besides the Marcedonius, which chanced to fall out that year; so that this year consisted of 15 months, or 445 days. This reformation was made in the year of Rome 708, 42 or 43 years before Christ.

The Roman kalendar, called also *Julian kalendar*, from its reformer Julius, is disposed into quadriennial periods; whereof the first three years, which he called *communes*, consist of 365 days; and the fourth, *bissextile*, of 366;

Kalendar. by reason of the six hours, which in four years make a day or somewhat less, for in 134 years an intercalary day is to be retrenched. On this account it was, that pope Gregory XIII. with the advice of Clavius and Ciaconius, appointed, that the hundredth year of each century should have no bissextile, excepting in each fourth century: that is, a subtraction is made of three bissextile days in the space of four centuries; by reason of the 11 minutes wanting in the six hours whereof the bissextile consists.

The reformation of the kalendar, or the *new style*, as we call it, commenced on the 4th of October 1582, when ten days were thrown out at once, so many having been introduced into the computation since the time of the council of Nice in 325, by the defect of 11 minutes.

Julian Christian KALENDAR, is that wherein the days of the week are determined by the letters A, B, C, D, E, F, G, by means of the solar cycle; and the new and full moons, especially the paschal full moon, with the feast of Easter, and the other moveable feasts depending thereon, by means of golden numbers, rightly disposed through the Julian year. See *CYCLE*, and *GOLDEN Number*.

In this kalendar, the vernal equinox is supposed to be fixed to the 21st day of March; and the cycle of 19 years, or the golden numbers, constantly to indicate the places of the new and full moons; yet both are erroneous. And hence arose a very great irregularity in the time of Easter. To show this error the more apparently, let us apply it to the year 1715. In this year, then, the vernal equinox falls on the 10th of March; and therefore comes too early by 11 days. The paschal full moon falls on the 7th of April; and therefore too late, with regard to the cycle, by three days. Easter, therefore, which should have been on the 10th of April, was that year on the 17th. The error here lies only in the metempsychosis, or postposition of the moon, through the defect of the lunar cycle. If the full moon had fallen on the 11th of March, Easter would have fallen on the 13th of March; and therefore the error arising from the anticipation of the equinox would have exceedingly augmented that arising from the postposition. These errors, in course of time, were so multiplied, that the kalendar no longer exhibited any regular Easter. Pope Gregory XIII. therefore, by the advice of Aloysius Lilius, in 1582, threw 10 days out of the month of October, to restore the equinox to its place, viz. the 21st of March; and thus introduced the form of the Gregorian year, with such a provision, as that the equinox should be constantly kept to the 21st of March. The new moons and full moons, by advice of the same Lilius, were not to be indicated by golden numbers, but by epacts. The kalendar, however, was still retained in Britain without this correction: whence there was a difference of 11 days between our time and that of our neighbours. But by 24 Geo. II. c. 23. the Gregorian computation is established here, and accordingly took place in 1752.

Gregorian KALENDAR, is that which, by means of epacts, rightly disposed through the several months, determines the new and full moons, and the time of Easter, with the moveable feasts depending thereon, in the Gregorian year.

The Gregorian kalendar, therefore, differs from the Julian, both in the form of the year, and in that epacts

are substituted in lieu of golden numbers: for the use and disposition whereof, see *EPACT*.

Though the Gregorian kalendar be preferable to the Julian, yet it is not without its defects (perhaps, as Tycho Brahe and Cassini imagine, it is impossible ever to bring the thing to a perfect justness). For, first, the Gregorian intercalation does not hinder, but that the equinox sometimes succeeds the 21st of March as far as the 23d; and sometimes anticipates it, falling on the 19th; and the full moon, which falls on the 20th of March, is sometimes the paschal; yet not so accounted by the Gregorians. On the other hand, the Gregorians account the full moon of the 22d of March the paschal; which yet, falling before the equinox, is not paschal. In the first case, therefore, Easter is celebrated in an irregular month; in the latter, there are two Easters in the same ecclesiastical year. In like manner, the cyclical computation being founded on mean full-moons, which yet may precede or follow the true ones by some hours, the paschal full-moon may fall on Saturday, which is yet referred by the cycle to Sunday; whence, in the first case, Easter is celebrated eight days later than it should be; in the other, it is celebrated on the very day of the full-moon, with the Jews and Quartodeciman heretics; contrary to the decree of the council of Nice. Scaliger and Calvisius show other faults in the Gregorian kalendar, arising from the negligence and inadvertency of the authors; yet is this kalendar adhered to by the Romanists throughout Europe, &c. and used wherever the Roman breviary is used.

Reformed, or Corrected KALENDAR, is that which, setting aside all apparatus of golden numbers, epacts, and dominical letters, determines the equinox, with the paschal full-moon, and the moveable feasts depending thereon, by astronomical computation, according to the Rudolphine Tables.

This kalendar was introduced among the Protestant states of Germany in the year 1700, when 11 days were at once thrown out of the month of February; so that in 1700 February had but 18 days: by this means, the corrected style agrees with the Gregorian. This alteration in the form of the year they admitted for a time; in expectation that, the real quantity of the tropical year being at length more accurately determined by observation, the Romanists would agree with them on some more convenient intercalation.

Construction of a KALENDAR, or Almanac. 1. Compute the sun's and moon's place for each day of the year; or take them from ephemerides. 2. Find the dominical letter, and by means thereof distribute the kalendar into weeks. 3. Compute the time of Easter, and thence fix the other moveable feasts. 4. Add the immoveable feasts, with the names of the martyrs. 5. To every day add the sun's and moon's place, with the rising and setting of each luminary; the length of day and night; the crepuscula, and the aspects of the planets. 6. Add in the proper places the chief phases of the moon, and the sun's entrance into the cardinal-points; i. e. the solstices and equinoxes; together with the rising and the setting, especially heliacal, of the planets and chief fixed stars. See *ASTRONOMY*.

The duration of the crepuscula, or the end of the evening and beginning of the morning twilight, together with the sun's rising and setting, and the length of days, may be transferred from the kalendar of one year into those of another; the differences in the several

Kalendar.

Kalendar. *veral* years being too small to be of any consideration in civil life.

Hence it appears, that the construction of a kalendar has nothing in it of mystery or difficulty, if tables of the heavenly motions be at hand.

Some divide kalendars or almanacs into public and private, perfect and imperfect; others into Heathen and Christian.

Public almanacs are those of a larger size, usually hung up for common or family use; private are those of a smaller kind, to be carried about either in the hand, inscribed on a staff, or in the pocket; perfect, those which have the dominical letters as well as primes and feasts inscribed on them; imperfect, those which have only the primes and immoveable feasts. Till about the fourth century, they all carry the marks of heathenism; from that age to the seventh, they are generally divided between heathenism and Christianity.

Almanacs are of somewhat different composition, some containing more points, others fewer. The essential part is the kalendar of months and days, with the rising and setting of the sun, age of the moon, &c. To these are added various parerga, astronomical, astrological, meteorological, chronological, and even political, rural, medical, &c. as calculations, and accounts of eclipses, solar ingresses, aspects, and configurations of the heavenly bodies, lunations, heliocentric and geocentric motions of the planets, prognostics of the weather, and predictions of other events, tables of the planetary motions, the tides, terms, interest, twilight, equation, kings, &c.

Gelalean, or *Jellalean KALENDAR*, is a correction of the Persian kalendar, made by order of sultan Gelaleddan, in the 467th year of the Hegira; of Christ 1089.

KALENDAR, is also applied to divers other compositions respecting the 12 months of the year.

In this sense, Spencer has given the shepherd's kalendar; Evelyn and Miller the gardener's kalendar, &c.

KALENDAR, is used for the catalogue or fasti anciently kept in each church of the saints both universal and those particularly honoured in each church; with their bishops, martyrs, &c. Kalendars are not to be confounded with martyrologies; for each church had its peculiar kalendar, whereas the martyrologies regarded the whole church in general, containing the martyrs and confessors of all the churches. From all the several kalendars were formed one martyrology: so that martyrologies are posterior to kalendars.

KALENDAR, is also extended to an orderly table or enumeration of persons or things.

Lord Bacon wishes for a kalendar of doubts. A late writer has given a kalendar of the persons who may inherit estates in fee-simple.

KALENDAR, *Kalendarium*, originally denoted, among the Romans, a book containing an account of moneys at interest, which become due on the kalends of January, the usual time when the Roman usurers let out their money.

KALENDAR Months, the solar months, as they stand in the kalendar, viz. January 31 days, &c.

Astronomical KALENDAR, an instrument engraved upon copper-plates, printed on paper, and pasted on board, with a brass slider which carries a hair, and shows by inspection the sun's meridian altitude, right ascension,

declination, rising, setting, amplitude, &c. to a greater exactness than our common globes will show.

KALENDAR of Prisoners. See **CALENDAR**.

KALENDAR Brothers, a sort of devout fraternities, composed of ecclesiastics as well as laymen; whose chief business was to procure masses to be said, and alms distributed, for the souls of such members as were deceased. They were also denominated *kalend-brothers*, because they usually met on the kalends of each month, though in some places only once a quarter.

KALENDARIVM FESTVM. The Christians retained much of the ceremony and wantonness of the kalends of January, which for many ages was held a feast, and celebrated by the clergy with great indecencies, under the names *festum kalendarum*, or *hypodiakonorum*, or *stultorum*, that is, "the feast of fools:" sometimes also *libertas decembrica*. The people met masked in the church; and in a ludicrous way proceeded to the election of a mock pope, or bishop, who exercised a jurisdiction over them suitable to the festivity of the occasion. Fathers, councils, and popes, long laboured to restrain this licence to little purpose. We find the feast of the kalends in use as low as the close of the 15th century.

KALENDERS. See **CALENDERS**.

KALENDS, or **CALENDS**, in the Roman chronology, the first day of every month.—The word is formed from *καλέω* *I call* or *proclaim*; because, before the publication of the Roman fasti, it was one of the offices of the pontifices to watch the appearance of the new moon, and give notice thereof to the *rex sacrificulus*; upon which a sacrifice being offered, the pontiff summoned the people together in the Capitol, and there with a loud voice proclaimed the number of kalends, or the day whereon the nones would be; which he did by repeating this formula as often as there were days of kalends, *Calo Juno Novella*. Whence the name *calendæ* was given thereto, from *calo*, *calare*. This is the account given by Varro. Others derive the appellation hence, That the people being convened on this day, the pontifex called or proclaimed the several feasts or holidays in the month; a custom which continued no longer than the year of Rome 450, when C. Flavius, the curule ædile, ordered the fasti or kalendar to be set up in public places, that every body might know the difference of times, and the return of the festivals.

The kalends were reckoned backwards, or in a retrograde order. Thus, v. g. the first of May being the kalends of May; the last or the 30th of April was the *pridie kalendarum*, or second of the kalends of May; the 29th of April, the third of the kalends, or before the kalends: and so back to the 13th, where the ides commence; which are likewise, numbered invertedly to the fifth, where the nones begin; which are numbered after the same manner to the first day of the month, which is the kalends of April. See **IDES**, and **NONES**.

The rules of computation by kalends are included in the following verses:

*Prima dies mensis cujusque est dicta kalendæ:
Sex Maius nonas, October, Julius, & Mars;
Quatuor at reliqui: habet idus quilibet octo.
Inde dies reliquos omnes dic esse kalendas;
Quas retro numerans dices a mense sequente.*

Kalendar
||
Kalends.

Kalends
||
Kalmia.

To find the day of the kalends answering to any day of the month we are in; see how many days there are yet remaining of the month, and to that number add two: for example, suppose it the 22d day of April; it is then the 10th of the kalends of May. For April contains 30 days: and 22 taken from 30, there remains 8; to which two being added, the sum is 10. The reason of adding two is, because the last day of the month is called *secundo kalendas*, the last but one *tertio kalendas*, &c.

The Roman writers themselves are at a loss for the reason of this absurd and whimsical manner of computing the days of the month: yet it is still kept up in the Roman chancery; and by some authors, out of a vain affectation of learning, preferred to the common, more natural, and easy manner.

KALENDS, are also used in church-history to denote conferences anciently held by the clergy of each deanery, on the first day of every month, concerning their duty and conduct, especially in what related to the imposition of penance.

KALENDS of January, in Roman antiquity, was a solemn festival consecrated to Juno and Janus; wherein the Romans offered vows and sacrifices to those deities, and exchanged presents among themselves as a token of friendship.

It was only a melancholy day to debtors, who were then obliged to pay their interests, &c. Hence Horace calls it *tristes kalendæ*; Lib. i. Serm. Sat. 3.

KALI, in botany. See SALSOLA.

KALISH, a province of Lower Poland, with the title of a palatinate. It is bounded on the west by the palatinate of Bosnia, on the east by that of Syrad, on the north by Regal Prussia, and on the south by Silesia. Kalish is the capital town.

KALISH, a town of Lower Poland, and capital of a palatinate of the same name, where the Jesuits have a magnificent college. It is seated on the river Prozna, in a morass, which renders it difficult of access. E. Long. 18. 0. N. Lat. 52. 20.

KALMIA, in botany: A genus of the monogynia order, belonging to the decandria class of plants; and in the natural method ranking under the 18th order, *Bicornes*. The calyx is quinquepartite; the corolla salver-shaped, formed with five nectariferous horns on the under or outer side; the capsule quinquelocular. Of this genus there are two species, viz.

1. The *latifolia*, a most beautiful shrub, which rises usually to the height of five or six feet, and sometimes twice that height in its native places. The stems of some are as big as the small of a man's leg, though generally they are smaller, and covered with a brown rough bark. The wood is very close grained, heavy, and hard like box. The limbs in general are crooked, and grow irregular; but are thick-clothed with stiff smooth leaves of a shining bright green. The flowers grow in bunches on the tops of the branches to foot-stalks of three inches long; they are white, stained with purplish red, consisting of one leaf in form of a cup divided at the verge into five sections: in the middle is a stylus and 12 stamina; which, when the flower first opens, appear lying close to the sides of the cup at equal distances, their apices being lodged in ten little hollow cells, which being prominent on the outside, appear as so many little tubercles. The flowers are succeeded by small round capsules; which when ripe open in five

parts, and discharge their small dust like seeds. This plant is a native of Carolina, Virginia, and other parts of the northern continent of America; yet are not common, but are found only in particular places: they grow on rocks hanging over rivulets and running streams, and on the sides of barren hills. They blossom in May, and continue in flower the greatest part of the summer. The noxious qualities of this elegant plant lessen that esteem which its beauty claims: for although deer feed on its green leaves with impunity, yet when cattle and sheep, by severe winters deprived of better food, feed on the leaves of these plants, a great many of them die annually.

2. The *angustifolia*, rises to the height of about 16 feet, producing ever-green leaves in shape like the *lauro-cerasus*, but small, and of a shining dark green. The flowers grow in clusters, the buds of which appear in autumn wrapped up in a conic scaly perianthium, on which is lodged a viscous matter, which protects them from the severe cold in winter. These buds dilating in the following spring, break forth into twenty or more monopetalous flowers divided into five segments, and set singly on pedicles half an inch long. These flowers, when blown, appear white; but on a near view are of a faint bluish-colour, which as the flower decays grow paler. One of the five petals is longer and more concave than the rest, and is blended with purple, green, and yellow specks, being a viscous matter on the extremities of very fine hairs. The convex side of the same petal is also speckled with yellowish green. The pointal rises from the centre of the flower, and has its head adorned with scarlet, and surrounded by 10 stamina, whereof three are long and seven short, whose farina issues out at a small round hole at its top. This elegant tree adorns the western and remote parts of Pennsylvania, always growing in the most sterile soil, or on the rocky declivities of hills and river-banks, in shady moist places.

KALMUCS, a tribe of Tartars, called also *Eluths*, inhabiting the larger half of what the Europeans call *Western Tartary*. Their territory extends from the Caspian sea, and the river *Taik* or *Ural*, in 72 degrees of longitude from Ferro, to mount Altay, in 110 degrees, and from the 40th to the 52d degree of north latitude; whence it may be computed about 1930 miles in length from west to east, and in breadth from north to south about 650 miles where broadest. It is bounded on the north by Russia and Siberia, from which it is separated by a chain of mountains; on the east by mount Altay; on the south by the countries of Karazm and the two Bukharias, from which it is also separated partly by a chain of mountains and partly by some rivers. See TARTARY.

Of the Kalmuc Tartars the following curious account is given by professor Pallas. They are in general, says he, of a middle size, and it is even rare to see among them a person that is tall; the women especially are of low stature, and have very agreeable features. Their limbs are neatly turned, and very few have any defects contracted in infancy. Their education being left solely to nature, procures for them a well formed body and sound constitution. The only defect which is common among them is their having the thighs and legs somewhat bent. A fat person is hardly ever to be met with; the richest and most distinguished, though they lead a life sufficiently indolent, and enjoy abundance

Kalmia,
Kalmuc.

Kalmucs. dance of every thing they desire, are never excessively corpulent. Their skin is pretty fair, especially when young; but it is the custom of the lower sort to allow their male children to go quite naked both in the heat of the sun and in the smoky atmosphere of their felt huts; the men too sleep naked, covered only with their drawers; and from these circumstances they acquire that yellowish brown colour which characterises them. The women, on the contrary, have a very delicate complexion; among those of a certain rank are found some with the most beautiful faces, the whiteness of which is set off by the fine black of their hair; and in this as well as in their features they perfectly resemble the figures in Chinese paintings.

The physiognomy which distinguishes the Kalmucs is pretty generally known. Strangers are made to believe that it is frightfully deformed; and though indeed there are very ugly men to be found, yet in general their countenance has an openness in it that bespeaks a mild, a frank, and social disposition. In many it is of a roundish shape, and exceedingly agreeable; among the women some would be thought beauties even in those European cities where the taste is most scrupulous. The characteristic features of a Kalmuc or Mongul countenance are the following: The interior angle of the eye is placed obliquely downwards towards the nose, and is acute and fleshy; the eye-brows are black, narrow, and much arched; the nose is of a structure quite singular, being generally flat and broken towards the forehead; the cheek bone is high, the head and face very round; the eye is dark, the lips thick and fleshy, the chin short, and the teeth exceeding white, continuing so to old age; the ears are of an enormous size, standing out from the head. These characters are more or less visible in each individual; but the person that possesses them all in the highest degree is considered as the most beautifully formed.

Among all the Mongul nations, the men have much less beard than in our European countries, and among the Tartars it appears much later. The Kalmucs have most of it; and yet even with them the beard is very scanty and thin, and few have much hair on any other part of the body.

People that lead a pastoral life enjoy the bodily senses in the greatest perfection. The Kalmucs find the subtilty of their sense of smell very useful in their military expeditions, for by it they perceive at a distance the smoke of a fire or the smell of a camp. There are many of them who can tell by applying the nose to the hole of a fox or any other quadruped if the animal be within or not. They hear at a great distance the trampling of horses, the noise of an enemy, of a flock of sheep, or even of strayed cattle; they have only to stretch themselves on the ground, and to apply their ear close to the turf. But nothing is more astonishing than the acuteness of sight in most of the Kalmucs, and the extraordinary distance at which they often perceive very minute objects, such as the dust raised by cattle or horses, and this from places very little elevated; in immense level deserts, though the particular inequalities of the surface and the vapours which in fine weather are seen to undulate over the soil in great heats, considerably increase the difficulty. They are also accustomed to trace the print of a foot in these deserts by the sight alone.

These people possess many good qualities, which

give them a great superiority over the wandering Tartars. A certain natural sagacity, a social disposition, hospitality, eagerness to oblige, fidelity to their chiefs, much curiosity, and a certain vivacity accompanied with good humour, which hardly ever forsakes even the most wretched among them, form the fair side of their character. On the other hand, they are careless, superficial, and want true courage; besides, they are remarkable for credulity, distrust, and a natural inclination authorised by custom for drunkenness and debauchery, but especially for a great degree of cunning, which they too often practise. The disposition to indolence is common and natural, especially among the men, to all Asiatic nations, who lead a kind of life exempt from subjection and devoid of activity; but this is less to be perceived among the Kalmucs, on account of their natural vivacity, and does not prevent their endeavours to oblige. Those among them who exercise any little trade, or who are reduced by poverty to hire themselves to the Russians either for labour or for fishing, are very assiduous and indefatigable. They sleep but little, going to rest late and rising with the sun. To sleep through the day, unless a person is drunk, is considered by them as dishonourable. But their extreme dirtiness can neither be disguised nor justified, and proceeds much more from their education, from the slovenliness attached to the profession of a herdsman, and from levity, than from laziness; for the Kalmuc women are indefatigable in whatever concerns domestic matters: and it is for this reason, as well as on the score of sensuality, that the Kirgisiens are eager to seize and carry them off whenever an opportunity presents itself.

With regard to the intellectual faculties of the Kalmucs, notwithstanding their want of instruction and information, they possess good natural parts, an excellent memory, and a strong desire to learn. They acquire the Russian language with great facility, and pronounce it well; in which last article they very much surpass the Chinese. It would be very easy to civilize them, if their petulance and manner of life did not render it impracticable.

Although the Kalmucs are generally of a sanguine and choleric temperament, they live more amicably together than one could expect in a people that lead so independent a life. They seldom come to blows even over their cups, and their quarrels are hardly ever bloody. A murder very rarely happens, though their anger has something in it exceedingly fierce. It would seem that the morality of their religion, though extremely idolatrous, has been able to moderate their natural disposition in this respect; for in consequence of their dogmas, with regard to the transmigration of souls, every wanton murder either of men or beasts is thought a deadly sin.

The Kalmucs are exceedingly affable; and of so social a disposition, that it is rare for a traveller to perceive another even at the distance of several miles without going to salute him, and to inquire into the object of his journey. When a troop of Kalmucs perceive any person at a distance, it is customary for them to detach one of their number to the next eminence, from whence he makes a signal with his cap for the person to draw near. If this signal is not obeyed, the person is considered as an enemy or a robber, and is often pursued as such. They enter willingly into friend-

ships:.

Kalmucs.

Kalmucs. ships: but these connections are not quite disinterested; for to give and to receive presents are with them essential articles. A mere trifle, however, is sufficient to induce them to do you all manner of service; and they are never ungrateful as far as they are able. Adversity cannot deprive them of courage nor alter their good humour. A Kalmuc will never beg if he were in the extremest misery, but rather endeavour to acquire a subsistence by cheating; and when no other way remains, he will hire himself to some rich individual of his nation, or to some Russian, either as a herdsman, a fisherman, or for any other sort of labour. Very few of the rich value themselves much upon their wealth: but those who do, show no contempt for the poor of their own nation; though the meaner sort pay their court very obsequiously to the rich, who are always surrounded with a swarm of idle dependants.

Nothing can be more prudent than that exercise of hospitality practised by wandering nations: it is of the greatest advantage to those among them who travel across their deserts; and each individual who practises it, may rely on reaping the benefit of it wherever he goes. A Kalmuc provided with a horse, with arms and equipage, may ramble from one place to another for three months together, without taking with him either money or provisions. Wherever he comes he finds either distant relations or friends, to whom he is attached by the ties of hospitality, from whom he meets with the kindest reception, and is entertained in the best manner their circumstances afford. Perhaps he lodges in the first unknown cottage he finds upon his road; and scarcely has he entered it, but his wants are supplied with the most affectionate cordiality. Every stranger, of whatsoever nation, never fails to be well received by a Kalmuc; and he may depend upon having his effects in the greatest security the moment he has put himself under the protection of his host: for to rob a guest is considered by the Kalmucs as the most abominable of all crimes.

When the master of the house sits down to meat in company with others of inferior rank, he begins indeed by serving himself and his family, but whatever remains is distributed among the assistants. When they smoke tobacco, the pipe circulates incessantly from one to another. When any one receives a present either of meat or drink, he divides it faithfully with his companions, even though of inferior rank. But they are much more niggardly of their other effects, and especially of their cattle, and do not willingly give these away except when they hope to receive a suitable return: or if any relation has accidentally suffered the loss of his flocks, he is sure to be most willingly assisted. Perhaps too it may be related as an article of their hospitality, that they abandon their wives to their friends with the greatest facility, and in general they are very little inclined to jealousy.

Their robberies are never committed upon their equals, and even the greater part of the rapine exercised on other tribes is founded on hatred or national quarrels; neither do they willingly attempt this by open force, but prefer the machinations of cunning, which are so natural to them. It must also be confessed, that it is only those that live with princes, and in camps where these hold their courts, or their priests,

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Kalmucs. that are most addicted to these practices; while the common people, satisfied with the pleasures of the pastoral life, spend their days in innocent simplicity, and never attack the property of another till forced by necessity, or led by their superiors who show them the example.

The Kalmucs are very faithful to their lawful prince; they endure every sort of oppression, and yet are with difficulty induced to revolt; but if they belong to a prince who has not become so by right of succession, they very easily rebel. They honour old age. When young men travel with such as are older than themselves, they take upon them the whole care of the cattle as well as of the feast. They are exceedingly prudent in matters that relate to their sovereign or their nation, or which are recommended to their direction by the priests, to whom they yield an unreserved obedience.

The moveable habitations of the Kalmucs are those felt huts with a conical roof in use among all the roaming Asiatics. The truly ingenious invention of these tents was undoubtedly conceived in the eastern parts of Asia, and most probably by the Mongul nations. As they can be entirely taken to pieces and folded in a small compass, they are very useful, and perfectly agree with the migratory life of these people, who are still ignorant of the use of carriages. The frame of these huts, and the felt they are covered with, though made as light as possible, yet are a sufficient load for a camel or two oxen. But the capacity of these huts, their warmth in winter, their strength in resisting tempests and excluding rain, abundantly compensate for this inconvenience. The wood endures many years; and though the felt begins to break into holes in the second year, the common people, who do not consider it as disgraceful to have them mended and patched, make them serve a good deal longer. The huts are in general use from the prince down to the meanest Kalmuc, differing only in size and in the embellishments within. In winter, they are warm even when heated with the dried excrements of their cattle, to which they are often obliged to have recourse for want of other combustibles in many places of the deserts which are destitute of wood. In summer they remove the felt to enjoy the fresh air.

The master of the tent has his bed placed opposite to the door behind the fire-place. The bedsteads are low and made of wood. The rich adorn their beds with curtains, and spread carpets of felt upon the ground. When a Kalmuc possesses an idol, he places it near the head of his bed, and sets before it several small consecrated cups full of water, milk, or other food. Before this sort of altar he fixes in the ground the trunk of a tree, on which he places a large iron basin destined to receive the libations of all the drink he makes use of in a day. On festivals the idol is decorated, the lamps are lighted, and perfumes burnt before it.

The riches of the Kalmucs, and their whole means of subsistence, depend on their flocks, which many of them reckon by hundreds and even by thousands. A man is thought capable of living on his possessions when he is master of ten cows with a bull, eight mares with a stallion. The animals they have in greatest abundance are horses, horned cattle, and sheep. Camels, which

re-

Kalmucs. require time and pains to rear, cannot multiply much with them: they are besides too delicate; and it is only the rich or the priests who possess any of them. Their horses are but small, too weak for the draught, and too wild; but they do not yield to any in swiftness, and support with ease the weight of a man. They may be made to gallop for several hours successively without injury; and when necessity requires it, they can pass twice 24 hours without drinking. They have a little hoof, but very hard; and they may be used at all times without being shod. In this country the horses live and perpetuate themselves without any assistance from man. The Kalmucs castrate the greater part of their male foals, and at the same time slit their nostrils, that they may breathe more freely when they run. The stallions are never separated from the mares, that there may always be plenty of milk. The stallions are leaders of the herd, and often wander at a distance into the deserts at the head of their females, defending them from the wolves with the greatest intrepidity. The Kalmucs have the art of breaking a young horse without using a bridle. They seize him before he is two years old by means of a noose fixed to the end of a long pole; an instrument they use in taking their riding horses which feed in the midst of the herd. They put no saddle at first on the colt they mean to break, but tie a strait girth round his body; by the help of which the horseman can keep himself firm. When he is mounted, the horse is abandoned to his fury; they allow him to run and agitate himself as much as he pleases on the open plain till he is fatigued. The horseman is solicitous only to keep himself fast; and when the horse begins to abate of his impetuosity, he urges him again with the whip till his strength is almost gone: he is then saddled and bridled, and made to go for some time at a moderate pace; after which he is entirely tamed.

The horned cattle of the Kalmucs are of a beautiful shape. They keep more bulls than are necessary for the cows, and employ a great number of them as beasts of burden for carrying their houses and their other furniture from place to place. They think a bull equal to 50 cows. These and the mares give milk only while they suckle their calves or their foals, which are accordingly kept close to the tents during the day, and only suffered to suck freely during the night; a practice which the Kalmucs pretend makes their cattle stronger and more durable. They generally milk their mares three or four times a day, and sometimes every two hours when the herbage is abundant. The cows are milked but twice a day.

The Kalmuc sheep are of the same species with those found in all Great Tartary, having large tails like a bag, exceedingly fat, and which furnish a suet as soft as butter. They have also large pendant ears, and their head is much arched. Their wool is coarse, and the ewes seldom have horns. One ram is sufficient for an hundred ewes. Little use is made of the milk. The wool is fit for nothing but to make felt for the tents. A great many sheep die during winter, and a greater number still of the early lambs; the skins of which are wrought into those fine furs so much esteemed in Russia and foreign parts.

Camels belong only to the rich; for they are very dear, multiply very slowly, and are subject to many

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diseases. The deserts of the Wolga, and almost all those of the southern parts of Great Tartary, furnish excellent pasture for these animals; but they require not only much attention in winter, but they must be continually under the eye of the herdsmen; for notwithstanding the advantage of their stature, they are of all animals least able to defend themselves against the wolf. They are guarded with much care against the violence of the cold and the winds of winter; nevertheless many of them die of a consumption accompanied with a diarrhoea, occasioned most probably by the moisture of their pasture and of the season. This disease, for which no remedy has been found, makes them languish for six months or more. They are in general so delicate, that a slight wound or blow often prove fatal to them. Besides, no animal is so much tormented with insects; and they often die in summer of those they swallow in eating the leaves of the oak and of the birch. The *mela prascearabeus*, which covers all the plants in many of those places where they feed, is generally fatal to them. In spring, when they cast their hair, and which falls at once from every part of their body, they are exposed to the bite of the spider-scorpion, an animal very common in southern countries. The wound inflicted by this insect on the skin thus naked is so venomous, that the camel dies of it in less than eight days, sometimes in three. In winter, and especially after rutting time, which happens at the end of March, the camels become lean and weak; the bunch upon their back grows flabby, and hangs down upon the side, nor does it recover its plumpness till summer.

Camels milk is thick, unctuous, and of a saltish taste, especially when the animals frequent pastures abounding with saline plants; and this last property makes the Kalmucs fond of it to tea. They make use of the hair for stuffing cushions, and for making ropes, packthread, and felt. It may be wrought into the most beautiful camlets, or into the finest and softest cloths. The camels with two bunches are a very uneasy seat to the person who mounts them; their trot is so heavy, and even their walk so rude, that he receives the most violent shocks at every step.

When a Kalmuc Horde intends to remove in search of fresh pasture, which in summer necessarily happens every four, six, or eight days, people are in the first place dispatched to reconnoitre the best place for the khan or prince, for the lama, and for the huts containing the idols. These begin the march, and are followed by the whole troop, each choosing for himself the place he thinks most convenient. The camel that is loaded with the most precious furniture is decorated with little bells, the rest march in a string one behind another, and the bulls with burdens are driven on before. On these days the women and girls dress themselves in their best clothes, and lay on abundance of paint. They have the charge, together with the boys, of leading the flocks and the beasts of burden; and on the road they beguile the tediousness of the journey with their songs.

The Kalmucs are supplied by their flocks with milk, cheese, butter, and flesh, which are the principal articles of their food. With regard to the last, they are so little squeamish, that they not only eat the flesh of their own diseased cattle, but that of almost every sort

Kalmucs. of wild beast, and the poor will even feed upon carion. They eat, however, the roots and stalks of many plants; such as the bulbous-rooted chervil and dandelion, &c. which they use both boiled and raw.

Their ordinary drink is the milk of mares or cows; but the former is for several reasons preferred. This, when fresh, has indeed a very disagreeable taste of garlic: but besides that it is much thinner than cow-milk, it takes as it grows sour a very agreeable vinous flavour; it yields neither cream nor curd, but furnishes a very wholesome refreshing beverage, which sensibly inebriates when taken to excess. They never make use of new milk, and still less of milk or of water that have not been boiled. Their milk is boiled as soon as it is taken from the animal; when it is cold it is poured into a large leathern bag, in which there remains as much of the old milk as is sufficient to turn the new quantity sour, for they never think of cleansing those bags; and as the inside is lined with a crust deposited by the caseous part of the milk and other impurities, it is easy to imagine that a nauseous smell must exhale from them. But this is precisely the circumstance in which the secret consists of communicating to the milk a vinous fermentation.

In summer, and as often as the Kalmucs procure much milk from their flocks, they never fail to intoxicate themselves continually with the spirituous liquor which they know how to distil from it. Mares milk is the most spirituous; and the quantity meant to be distilled remains twenty-four hours in summer, and three or four days in winter, in those corrupted bags we mentioned, to prepare it for the operation. The cream is left, but the butter which forms at top is taken off and reserved for other purposes. Cows milk yields one-thirtieth part, and mares milk one-fifteenth part, of spirit. This liquor is limpid and very watery, and consequently does not take fire, but is capable of being long kept in glass-bottles. The rich Kalmucs increase its strength by a second distillation.

These people are exceedingly fond of tea and tobacco. The former is so dear, as it comes to them from China by the way of Russia, that the poor people supply its place with various wild plants; such as a species of liquorice, the seed of the sharp-leaved dock, the roots of wild angelica, and the seed of the Tartarian maple.

The Kalmucs are excellent horsemen. Their arms are lances, bows, and arrows, poignards, and crooked sabres, though the rich have fire-arms. They wear, when at war, coats of mail, which cost 50 horses, and their helmets are gilded at top. They are fond of falconry, and hunting of all sorts is their principal amusement. Their passion for play, especially with those who play cards, is carried to as great excess among them as in any other nation.

The greater part of their time is spent in diversions; and however miserable their manner of life may seem to us, they are perfectly happy with it. They cannot endure for any time the air of a close room; and think our custom of living in houses insupportable. The greatest part of them, notwithstanding of the apparent unhealthiness of their way of life, arrive at a vigorous old age; their diseases are neither frequent nor dangerous. Men of 80 or 100 years old are not uncommon; and at that age they can still very well endure the exer-

cise of riding. Simple food, the free air which they constantly breathe, a hardy vigorous constitution, continual exercise without severe labour, and a mind free from care, are the natural causes of their health and longevity.

It is very remarkable, that a migratory people, whose manner of life seems so congruous to the natural liberty of mankind, should have been subjected from time immemorial to the unlimited authority of an absolute sovereign. The Monguls of Asia afford the only instance of it; for neither written records nor ancient tradition have preserved the smallest trace of their ever having enjoyed a state of independence. On the contrary, they acknowledge that they have at all times been subject to khans and princes, whose authority has been transmitted to them by succession, and is considered as a right perfectly established, sacred, and divine.

KAMAKURA, a famous island of Japan, about three miles in circumference, lying on the south coast of Nippon. It is here they confine their great men when they have committed any fault. The coast of this island is so steep, that they are forced to be lifted up by cranes.

KAMEEL, **KAMEL**, or *Camel*, a machine for lifting ships. See **CAMEL**.

KAMINIECK, a very strong town of Poland, and capital of Podolia, with two castles and a bishop's see. It was taken by the Turks in 1672, who gave it back in 1690, after the treaty of Carlowitz. It is seated on a craggy rock, in E. Long. 27. 30. N. Lat. 48. 58.

KAMSIN, the name of a hot southerly wind common in Egypt, of which we find the following description in Mr Volney's Travels.—These winds, says he, are known in Egypt by the general name of *winds of 50 days*; not that they last 50 days without intermission, but because they prevail more frequently in the 50 days preceding and following the equinox. Travellers have mentioned them under the denomination of *poisonous winds*, or, more correctly, *hot winds of the desert*. Such in fact is their quality; and their heat is sometimes so excessive, that it is difficult to form any idea of its violence without having experienced it; but it may be compared to the heat of a large oven at the moment of drawing out the bread. When these winds begin to blow, the atmosphere assumes an alarming aspect. The sky, at other times so clear in this climate, becomes dark and heavy; the sun loses his splendor, and appears of a violet colour; the air is not cloudy, but grey and thick, and is in fact filled with an extremely subtle dust, which penetrates every where. This wind, always light and rapid, is not at first remarkably hot, but it increases in heat in proportion as it continues. All animated bodies soon discover it by the change it produces in them. The lungs, which a too rarefied air no longer expands, are contracted, and become painful. Respiration is short and difficult; the skin parched and dry, and the body consumed by an internal heat. In vain is recourse had to large draughts of water; nothing can restore perspiration. In vain is coolness sought for; all bodies in which it is usual to find it deceive the hand that touches them. Marble, iron, water, notwithstanding the sun no longer appears, are hot. The streets are deserted, and the dead silence of night reigns every where.

The

Kamakura
||
Kamsin.

Kamlin,
Kamtchat-
ka.

The inhabitants of towns and villages shut themselves up in their houses, and those of the desert in their tents or in wells dug in the earth, where they wait the termination of this destructive heat. It usually lasts three days, but if it exceeds that time it becomes insupportable. Wo to the traveller whom this wind surprises remote from shelter; he must suffer all its horrible effects, which sometimes are mortal. The danger is most imminent when it blows in squalls; for then the rapidity of the wind increases the heat to such a degree as to cause sudden death. This death is a real suffocation; the lungs being empty are convulsed, the circulation is disordered, and the whole mass of blood driven by the heart towards the head and breast; whence the hæmorrhage at the nose and mouth which happens after death. This wind is especially destructive to persons of a plethoric habit, and those in whom fatigue has destroyed the tone of the muscles and the vessels. The corpse remains a long time warm, swells, turns blue, and soon becomes putrid. These accidents are to be avoided by stopping the nose and mouth with handkerchiefs; an efficacious method likewise is that practised by the camels. On this occasion these animals bury their noses in the sand, and keep them there till the squall is over. Another quality of this wind is its extreme aridity; which is such, that water sprinkled on the floor evaporates in a few minutes. By this extreme dryness it withers and strips all the plants; and by exhaling too suddenly the emanations from animal bodies, crisps the skin, closes the pores, and causes that feverish heat which is the constant effect of suppressed perspiration.

KAMTCHATKA, KAMSCHATKA, or *Kamchatka*; a large peninsula on the north-eastern part of Asia, lying between 51° and 62° of north latitude, and between 173° and 182° of east longitude from the isle of Ferro. It is bounded on the east and south by the sea of Kamtchatka, on the west by the seas of Ochotsk and Penshinsk, and on the north by the country of the Koriacs.

1
When first
visited by
the Rus-
sians.

This peninsula was not discovered by the Russians before the end of the last century. It is probable, however, that some of that nation had visited Kamtchatka before the time above mentioned. For when Volodomir Atlassoff entered upon the conquest of this peninsula in 1697, he found that the inhabitants had already some knowledge of the Russians. A common tradition as yet prevails among them, that, long before the expedition of Atlassoff, one Feodotoff and his companions had resided among them, and had intermarried with the natives; and they still show the place where the Russian habitations stood. None of the Russians remained when Atlassoff first visited Kamtchatka. They are said to have been held in great veneration, and almost deified by the natives; who at first imagined that no human power could hurt them, until they quarrelled among themselves, and the blood was seen to flow from the wounds which they gave each other; and soon after, upon a separation taking place, they were all killed by the natives. — These Russians were thought to be the remains of a ship's crew who had sailed quite round the north-eastern promontory of Asia called *Tschukutskoi-Nos*. The account we have of this voyage is as follows. — In 1648, seven katches or vessels sailed from the mouth

of the river Kovyma or Kolyma, lying in the frozen ocean in about 72° north latitude, and 173° or 174° east longitude from Ferro, in order to penetrate into the eastern ocean. Four of these were never more heard of; the remaining three were commanded by Simon Deshneff, Gerasim Ankudinoff, two chiefs of the Cossacs, and Feodotoff Alexeeff, head of the Promyshlennics or wandering Russians, who occasionally visited Siberia. Each vessel was probably manned with about 30 persons. They met with no obstructions from the ice; but Ankudinoff's vessel was wrecked on the promontory above mentioned, and the crew were distributed on board the two remaining vessels. These two soon after lost sight of each other, and never afterwards rejoined. Deshneff was driven about by tempestuous winds till October, when he was shipwrecked on the northern part of Kamtchatka. Here he was informed by a woman of Yakutsk, that Feodotoff and Gerasim had died of the scurvy; that part of the crew had been slain; and that a few had escaped in small vessels, who had never afterwards been heard of; and these were probably the people who, as we have already mentioned, settled among the Kamtchatkans.

2
Subdued by
them.

As the inhabitants of this country were neither numerous nor warlike, it required no great force to subdue them; and in 1711 the whole peninsula was finally reduced under the dominion of the Russians. — For some years this acquisition was of very little consequence to the crown, excepting the small tribute of furs exacted from the inhabitants. The Russians indeed occasionally hunted, in this peninsula, foxes, wolves, ermines, sables, and other animals, whose skins form an extensive article of commerce among the eastern nations. But the fur-trade carried on from thence was very inconsiderable, until the series of islands mentioned in the next article were discovered; since which time the quantities of furs brought from these islands have greatly increased the trade of Kamtchatka, and rendered it an important part of the Russian commerce.

The face of the country throughout the peninsula is chiefly mountainous. It produces in some parts birch, poplars, elders, willows, underwood, and berries of different sorts. Greens and other vegetables are raised with great facility; such as white cabbage, turnips, radishes, beet-root, carrots, and some cucumbers. Agriculture is in a very low state, owing chiefly to the nature of the soil and the severe hoar-frosts; for though some trials have been made with respect to the cultivation of grain, and oats, barley, and rye, have been sown, yet no crop has ever been procured sufficient in quantity or quality to answer the trouble of raising it. Hemp, however, has of late years been cultivated with great success. — Every year a vessel belonging to the crown sails from Ochotsk to Kamtchatka laden with salt, provisions, corn, and Russian manufactures; and returns in June or July of the following year with skins and furs.

3
Country
described.

Many traces of volcanoes have been observed in this peninsula; and there are some mountains which are in a burning state at present. The most considerable of these is situated near the middle of the peninsula. In 1762, a great noise was heard issuing from the inside of that mountain, and flames of fire were seen to

4
Volcanoes.

Kamtchatka.

burst from different parts. These flames were immediately succeeded by a large stream of melted snow-water, which flowed into the neighbouring valley, and drowned two natives who were there on a hunting-party. The ashes and burning matters thrown from the mountain were spread over a surface of 300 versts. In 1767 was another discharge, but less considerable. Every night flames of fire were observed streaming from the mountain; and considerable damage was done by the eruption which attended them. Since that year no flames have been seen; but the mountain emits a constant smoke.

5
Population,
&c.

Kamtchatka is divided by the Russians into four districts; and the government of the whole is dependent upon, and subject to, the inspection of the chancery of Ochotsk. The whole Russian force stationed in this peninsula amounts to no more than 300 men. The present population of Kamtchatka is very small, amounting to scarce 4000 souls. Formerly the inhabitants were more numerous; but in 1768, the small-pox carried off 5368 persons. There are now only about 700 males in the whole peninsula who are tributary, and few more than 100 in the neighbouring islands, called the *Kuril Isles*, who are subject to Russia. The fixed annual tribute consists in 279 fables, 464 red foxes, 50 sea-otters with a dam, and 38 cub otters. All furs exported from Kamtchatka pay a duty of 10 per cent. to the crown; the tenth part of the cargoes bought from the neighbouring islands is also delivered into the customs.

6
Manners,
&c. of the
natives.

The natives of Kamtchatka are as wild as the country itself. Some of them have no fixed habitations, but wander from place to place with their herds of rein-deer; others have settled habitations, and reside upon the banks of the rivers and the shore of the Penschinska sea, living upon fish and sea-animals, and such herbs as grow upon the shore: the former dwell in huts covered with deer-skins; the latter in places dug out of the earth; both in a very barbarous manner. Their dispositions and tempers are rough; and they are entirely ignorant of letters or religion. The natives are divided into three different people, namely, the Kamtchatkans, Koreki, and Kuriles. The Kamtchatkans live upon the south side of the promontory of Kamtchatka: the Koreki inhabit the northern parts on the coast of the Penschinska sea, and round the eastern ocean almost to the river Anadir, whose mouth lies in that ocean almost in 68° N. Lat.: the Kuriles inhabit the islands in that sea, reaching as far as those of Japan. The Kamtchatkans have this particular custom, that they endeavour to give every thing a name in their language which may express the property of it; but if they do not understand the thing quite well themselves, then they take a name from some foreign language, which perhaps has no relation to the thing itself; as, for example, they call a priest *bogbog*, because probably they hear him use the word *bogbog*, "God;" bread they call *brightatin augsb*, that is, Russian root; and thus of several other words to which their language is a stranger.

It appears probable, that the Kamtchatkans lived formerly in Mungalia beyond the river Amur, and made one people with the Mungals; which is farther confirmed by the following observations, such as the Kamtchatkan having several words common to the Mun-

gal Chinese language, as their terminations in ong, Kamtchatka. ing, oang, chin, cha, ching, kfii, kfung; it would be still a greater proof, if we could show several words and sentences the same in both languages. The Kamtchatkans and Mungals also are both of a middling stature, are swarthy, have black hair, a broad face, a sharp nose, with the eyes falling in, eye-brows small and thin, a hanging belly, slender legs and arms; they are both remarkable for cowardice, boasting, and slavishness, to people who use them hard, and for their obstinacy and contempt of those who treat them with gentleness.

Although in outward appearance they resemble the other inhabitants of Siberia, yet the Kamtchatkans differ in this, that their faces are not so long as the other Siberians; their cheeks stand more out, their teeth are thick, their mouth large, their stature middling, and their shoulders broad, particularly those people who inhabit the sea-coast.

Before the Russian conquest, they lived in perfect freedom, having no chief, being subject to no law, nor paying any taxes; the old men, or those who were remarkable for their bravery, bearing the principal authority in their villages, though none had any right to command or inflict punishment.

Their manner of living is slovenly to the last degree: they never wash their hands nor face, nor cut their nails; they eat out of the same dish with the dogs, which they never wash; they never comb their heads, but both men and women plait their hair in two locks, binding the ends with small ropes. When any hair starts out, they sew it with threads to make it lie close; by this means they have such a quantity of lice, that they can scrape them off by handfuls, and they are nasty enough even to eat them. Those that have not natural hair sufficient, wear false locks, sometimes as much as weigh 10 pounds, which makes their heads look like a haystack.

They place their chief happiness in idleness, and satisfying their natural lust and appetites; which incline them to singing, dancing, and relating of love-stories; and they think it more eligible to die than to lead a disagreeable life; which opinion often leads them to self-murder. This was so common after the conquest, that the Russians had great difficulty to put a stop to it. They have no notion of riches, fame, or honour; therefore covetousness, ambition, and pride, are unknown among them. On the other hand, they are careless, lustful, and cruel: these vices occasion frequent quarrels and wars among them, sometimes with their neighbours, not from a desire of increasing their power, but from some other causes; such as the carrying off their provisions, or rather their girls, which is frequently practised as the most summary method of procuring a wife. Their trade is almost entirely confined to procuring the immediate necessities and conveniences of life. They sell the Koreki fables, fox and white dog-skins, dried mushrooms, and the like, in exchange for cloaths made of deer-skins and other hides. Their domestic trade consists in dogs, boats, dishes, troughs, nets, hemp, yarn, and provisions: and this kind of barter is carried on under a great show of friendship; for when one wants any thing that another has, he goes freely to visit him, and without any ceremony makes known his wants, although

7
Kamtchatkans inclined to self-murder.

Kamtchatka.

though perhaps he never had any acquaintance with him before: the host is obliged to behave according to the custom of the country, and give his guest what he has occasion for; but he may afterwards return the visit, and must be received in the same manner. They fill almost every place in heaven and earth with different spirits, and offer them sacrifices upon every occasion. Some carry little idols about them, or have them placed in their dwellings; but with regard to God, they not only neglect to worship him, but in case of troubles and misfortunes they curse and blaspheme him.

8

Cannot number above twenty.

It is very diverting to see them attempt to reckon above ten: for having reckoned the fingers of both hands, they clasp them together, which signifies ten; then they begin with their toes, and count to twenty; after which they are quite confounded, and cry, Metcha? that is, Where shall I take more? They reckon ten months in the year, some of which are longer and some shorter; for they do not divide them by the changes of the moon, but by the order of particular occurrences that happen in those regions. They commonly divide our year into two, so that winter is one year and summer another: the summer year begins in May, and the winter in November. They do not distinguish the days by any particular appellation, nor form them into weeks or months, nor yet know how many days are in the month or year. They mark their epochs by some remarkable thing or other; such as the arrival of the Russians, or the first expedition to Kamtchatka.

9

Their laws.

If any one kills another, he is to be killed by the relations of the person slain. They burn the hands of people who have been frequently caught in theft; but for the first offence the thief must restore what he hath stolen; and live alone in solitude, without expecting the assistance of others. They never have any disputes about their land or their huts, every one having land and water more than sufficient for his wants. They think themselves the happiest people in the world; and look upon the Russians who are settled among them with contempt. However, this notion begins to change: for the old people who are confirmed in their customs drop off; and the young ones being converted to the Christian religion, adopt the customs of the Russians, and despise the barbarity and superstition of their ancestors.

In every ostrog or large village, by order of her imperial majesty, is appointed a chief, who is sole judge in all causes except those of life and death; and not only those chiefs, but even the common people, have their chapels for worship. Schools are also erected in almost every village, to which the Kamtchatkans send their children with great pleasure: by this means it is to be hoped that barbarity will be in a short time rooted out from amongst them.

10

Manner of building their huts.

Under the name of *ostrog*, is understood every habitation consisting of one or more huts, all surrounded by an earthen wall or palisado.—The huts are built in the following manner: they dig a hole in the earth about five feet deep, the breadth and length proportioned to the number of people designed to live in it. In the middle of this hole they plant four thick wooden pillars; over these they lay balks, upon which

they form the roof or ceiling, leaving in the middle a square opening which serves them for a window and chimney; this they cover with grass and earth, so that the outward appearance is like a round hillock; but within they are an oblong square, with the fire in one of the long sides of the square: between the pillars round the walls of their huts they make benches, upon which each family lies separately; but on that side opposite to the fire there are no benches, it being designed for their kitchen-furniture, in which they dress their victuals for themselves and dogs. In those huts where there are no benches, there are balks laid upon the floor, and covered with mats. They adorn the walls of their huts with mats made of grass. They enter their huts by ladders, commonly placed near the fire-hearth; so that, when they are heating their huts, the steps of the ladder become so hot, and the smoke so thick, that it is almost impossible for a stranger to go up or down without being burnt, and even stifled to death; but the natives find no difficulty in it; and though they can only fix their toes on the steps of the ladder, they mount like squirrels; nor do the women hesitate to go through this smoke with their children upon their shoulders, though there is another opening through which the women are allowed to pass; but if any man pretend to do the same, he would be laughed at. The Kamtchatkans live in these huts all the winter, after which they go into others called *balagans*: these serve them not only to live in during the summer, but also for magazines. They are made in the following manner: nine pillars, about two fathoms long, or more, are fixed in the ground, and bound together with balks laid over them, which they cover with rods, and over all lay grass, fastening spars, and a round sharp roof at top, which they cover with bramble, and thatch with grass. They fasten the lower ends of the spars to the balks with ropes and thongs, and have a door on each side, one directly opposite to the other. They make use of the same kind of huts to keep their fish, &c. till winter comes on, when they can more easily remove it; and this without any guard, only taking away the ladders. If these buildings were not so high, the wild beasts would undoubtedly plunder them; for notwithstanding all their precaution, the bears sometimes climb up and force their way into their magazines, especially in the harvest, when the fish and berries begin to grow scarce.

The southern Kamtchatkans commonly build their villages in thick woods and other places which are naturally strong, not less than 20 versts from the sea; and their summer habitations are near the mouths of the rivers; but those who live upon the Penschinská sea and the eastern ocean build their villages very near the shore. They look upon that river near which their village is situated as the inheritance of their tribe.

In order to kindle fire, they use a board of dry wood with round holes in the sides of it, and a small round stick; this they rub in a hole till it takes fire; and instead of tinder they use dry grass beat soft. These instruments are held in such esteem by the Kamtchatkans, that they are never without them, and they value them more than our steels and flints; but they

are.

Method of kindling fire.

¹¹ Kamtchatka are excessively fond of iron instruments, such as hatchets, knives, or needles: nay, at the first arrival of the Russians, a piece of broken iron was looked upon as a great present; and even now they receive it with thankfulness, finding use for the least fragment, either to point their arrows or make darts, which they do by hammering it out cold between two stones. As some of them delight in war, the Russian merchants are forbid to sell them any warlike instruments: but they are ingenious enough to make spears and arrows out of the iron pots and kettles which they buy; and they are so dexterous, when the eye of a needle breaks, as to make a new eye, which they will repeat until nothing remains but the point.

¹² Construction of their boats.

The Kamtchatkans make their boats of poplar-wood; but the Kuriles not having any wood of their own, make use of what is thrown on shore by the sea, and is supposed to come from the coasts of Japan, China, or America. The northern inhabitants of Kamtchatka, the settled Koreki and Tschukotskoi, for want of proper timber and plank, make their boats of the skins of sea-animals. They sew the pieces together with whales beards, and caulk them with moss or nettles beat small. These boats hold two persons; one of which sits in the prow, and the other in the stern. They push them against the stream with poles, which is attended with great trouble: when the current is strong, they can scarcely advance two feet in ten minutes; notwithstanding which, they will carry these boats, fully loaded sometimes 20 versts, and when the stream is not very strong, even 30 or 40 versts. The larger boats carry 30 or 40 pood; when the goods are not very heavy, they lay them upon a float or bridge resting upon two boats joined together. They use this method in transporting their provisions down the stream, and also to and from the islands.

¹³ Of their clothes.

Their cloaths for the most part are made of the skins of deer, dogs, several sea and land animals, and even of the skins of birds, those of different animals being frequently joined in the same garment. They make the upper garment after two fashions; sometimes cutting the skirts all of an equal length, and sometimes leaving them long behind in form of a train, with wide sleeves of a length to come down below the knee, and a hood or caul behind, which in bad weather they put over their heads below their caps; the opening above is only large enough to let their heads pass: they sew the skins of dogs feet round this opening, with which they cover their faces in cold stormy weather; and round their skirts and sleeves they put a border of white dog-skin; upon their backs they sew the small shreds of skins of different colours. They commonly wear two coats; the under coat with the hair-side inwards, the other side being dyed with alder; and the upper with the hair outwards. For the upper garment they choose black, white, or speckled skins, the hair of which is most esteemed for the beauty of its colour.

Men and women without distinction use the above-mentioned garments, their dress only differing in their under-cloathing and in the covering of their feet and legs. The women have an under-garment, which they commonly wear at home in the house, consisting of a breeches and waistcoat sewed together. The breeches

are wide like those of the Dutch skippers, and tie below the knee; the waistcoat is wide above, and drawn round with a string. The summer habits are made of dressed skins without hair: their winter-garment is made of deer or stone-ram skins with the hair on. The undress or household habit of the men is a girdle of leather with a bag before, and likewise a leathern apron to cover them behind; these girdles are sewed with hair of different colours. The Kamtchatkans used formerly to go a hunting and fishing during the summer in this dress; but now this fashion is changed, and they wear linen shirts, which they buy from the Russians.

The covering of their feet and legs is made of skins of different sorts: in the summer-time, during the rains they wear the skins of seal with the hair outwards; but their most common covering is the skin of the legs of the rein-deer, and sometimes of the legs of other beasts, the shaggiest they can find, to preserve them against the cold. But the buskins which both the Cossacs and Kamtchatkans use in their finest dress, are made in the following manner: the sole is of white seal skin, the upper part of white fine leather, the hind quarters of white dog skin; what comes round the legs is of dressed leather or dyed seal-skin; the upper parts are embroidered. These buskins are so extraordinary, that if a bachelor is observed to wear them, he is immediately concluded to be upon a scheme of courtship.

They wear the same sort of caps as the people of Yakutski. In summer they have a sort of hats of birch bark tied about their head. The Kuriles use in the summer-time caps made of plaited grass. The womens head-dress is the perukes that we formerly mentioned; and these were so dear to them, that when they came to be Christians they were with difficulty prevailed upon to quit this dress for one more decent: however, at present, round the Russ settlements, all is entirely changed, the women wearing shirts, ruffles, waistcoats, caps, and ribbands; which change nobody now complains of except the very old people. The women do all their work in mittins; they formerly never washed their faces, but now they use both white and red paint: for white paint they make use of a rotten wood; and for red a sea-plant, which they boil in seal's fat, and rubbing their cheeks with it, make them very red. They dress most in the winter time, especially when they either receive or pay visits.

The common cloaths for a Kamtchatkan and his family will not cost him less than 100 rubbles; for the coarsest worsted stockings, which cost in Russia 20 kopecks, cannot be bought here for less than a ruble; and all other things are sold in the same proportion. The Kuriles are more able to buy good cloaths than the Kamtchatkans; for they can purchase for one sea-beaver as much as the Kamtchatkans can for twenty foxes; and one beaver costs the Kuriles no more trouble than five foxes do the Kamtchatkans; for he must be a good hunter who catches more than ten foxes in the winter; and a Kurile thinks himself unlucky if he doth not catch three beavers in the season; besides which, great numbers are thrown upon the shore by storms.

The Kamtchatkans divide their fish into six parts: ¹⁴ Their diet the sides and tail are hung up to dry; the back and thinner

Kamchatka thinner part of the belly are prepared apart, and generally dried over the fire; the head is laid to four in pits, and then they eat it like salt fish, and esteem it much, though the stink is such that a stranger cannot bear it; the ribs and the flesh which remain upon them they hang up and dry, and afterwards pound for use; the larger bones they likewise dry for food for their dogs: in this manner all these different people prepare the yokola, which is the principal food, or, one may say, household bread; and they eat it for the most part dry.

Their second favourite food is caviar, or the roes of fish, which they prepare three different ways. They dry the roe whole in the air; or take it out of the skin which envelopes it, and spreading it upon a bed of grass, dry it before the fire; or, lastly, make rolls of it with the leaves of grass, which they also dry. They never take a journey or go to hunting without dry caviar; and if a Kamchatkan has a pound of this, he can subsist without any other provision a great while: for every birch and alder tree furnishes him with bark, which with his dried caviar makes him an agreeable meal; but they cannot eat either separately, for the caviar sticks like glue to the teeth; and it is almost impossible to swallow the bark, chewed ever so long by itself. There is still a fourth method, which both Kamchatkans and Koreki use in preparing their caviar: the first having covered the bottom of a pit with grass, they throw the fresh caviar into it, and leave it there to grow sour: the Koreki tie theirs in bags, and leave it to sour; this is esteemed their most delicate dish.

There is a third sort of diet, called by the Kamchatkans *chupriki*, which is prepared in this manner: in their huts, over the fire-place, they make a bridge of stakes, upon which they lay a heap of fish, which remains there until the hut becomes as warm as a bag-nio. If there is no great thickness of fish, one fire serves to dress it; but sometimes they are obliged to make two, three, or more fires. Fish dressed in this manner is half roasted, half smoked, but has a very agreeable taste, and may be reckoned the best of all the Kamchatkan cookery: for the whole juice and fat is prepared with a gradual heat, and kept in by the skin, from which they may when done enough be easily separated; and as soon as it is thus dressed, they take out the guts, and spread the body upon a mat to dry: this they afterwards break small, and putting it into bags, carry it along with them for provision, eating it like the yokola.

The Kamchatkans have a dish which they esteem very much, called *buigul*: it is fish laid to grow sour in pits; and though the smell of it is intolerable, yet the Kamchatkans esteem it a perfume. This fish sometimes rots so much in the pits, that they cannot take it out without ladles; in which case indeed they use it for feeding their dogs.

As for the flesh of land and the larger sea animals, they boil it in their troughs with several different herbs and roots; the broth they drink out of ladles and bowls, and the meat they take out upon boards, and eat in their hands. The whale and sea-horse fat they also boil with roots.

There is a principal dish at all their feasts and en-

tertainments, called *feluga*, which they make by pound-**Kamchatka** ing all sorts of different roots and berries, with the addition of caviar, and whale and seal's fat.

Before the conquest, they seldom used any thing for drink but plain water, unless when they made merry; then they drank water which had stood some time upon mushrooms. At present they drink spirits as fast as the Russians. After dinner they drink water: and when they go to bed at night, set a vessel of water by them, with the addition of snow or ice to keep it cold, and always drink it up before morning. In the winter-time, they amuse themselves frequently by throwing handfuls of snow into their mouths: and the bridegrooms, who work with the fathers of their future brides, find it their hardest task to provide snow for the family in summer-time; for they must bring it from the highest hills be the weather what it will, otherwise they would never be forgiven.

The Kamchatkans commonly travel in sledges ^{Method of travelling with dogs} drawn by dogs. The animals used for this purpose differ very little from the common house dogs; they are of a middling size, of various colours, though there seem to be more white, black, and grey, than of any other. In travelling, they make use of those that are castrated, and generally yoke four to a sledge. They drive and direct their dogs with a crooked stick about four feet long, which they sometimes adorn with different coloured thongs; this is looked upon as a great piece of finery. They drive their sledge sitting upon their right side, with their feet hanging down; for it would be looked upon as a disgrace for a man to sit down at the bottom of the sledge, or to make use of any person to drive him, nobody doing this but the women. It is very difficult to travel in these sledges; for unless a man keeps the exactest balance, he is liable every moment from the height and narrowness of them to be overturned: in a rugged road this would be very dangerous, as the dogs never stop till they come to some house, or are entangled by something upon the road; especially in going down steep hills, when they run with all their force, and are scarcely to be kept in; for which reason, in descending any great declivity, they unyoke all the dogs except one, and lead them softly down. They likewise walk up hills; for it is as much as the dogs can do to drag up the sledge empty. After a deep snow, before it has been hardened by a frost, there is no travelling with dogs till a road be made, which is effected by a man going before upon snow shoes, whom they call *brodovshika*. The snow-shoes are made of two thin boards, separated in the middle, bound together at the ends, and with the fore part bent a little upwards. The *brodovshika*, having one of these shoes upon each foot, leaves the dogs and sledge, and going on clears the road for some way; then returning, leads forward the dogs and sledge so far as the road is made; a method which he must continue till he comes to some dwelling-house. This is very laborious; and it happens so often, that no driver ever sets out without his snow-shoes. When a storm of driven snow surprises them, they are obliged with all haste to seek the shelter of some wood, and stay there as long as the tempest lasts, which sometimes is a whole week. If they are a large company, they dig a place for themselves.

Kamtchatka.

themselves under the snow, and cover the entry with wood or brambles. Sometimes they hide themselves in caves or holes of the earth, wrapping themselves up in their furs; and when thus covered, they move or turn themselves with the greatest caution lest they should throw off the snow, for under that they lie as warm as in their common huts: they only require a breathing-place; but their cloaths must not be tight or hard girt about them, for then the cold is insufferable. Another danger attending travellers is, that in the severest frost several rivers are not quite frozen over; and as the roads for the most part lie close upon the rivers, the banks being very steep, scarce a year passes without many being drowned. A disagreeable circumstance also to those who travel in these parts, is their sometimes being obliged to pass through cop-fes, where they run the risk of having their eyes scratched out or their limbs broken; for the dogs always run most violently in the worst roads, and, to free themselves, very often overturn their driver. The best travelling is in the month of March or April, when the snow is turned hard or frozen a little at top; however, there is still this inconvenience attending it, that sometimes travellers are obliged to lodge two or three nights in desert places; and it is difficult to prevail upon the Kamtchatkans to make a fire either for warming themselves or dressing victuals, as they and their dogs eat dried fish, and find themselves so warm wrapped in their furs, that they want no other heat; nay, all the people of this climate bear cold so well, that they sleep in the open air as sound as others in a warm bed, and awake next morning perfectly refreshed and alert. This seems to be so natural to all here, that some of them have been seen to lie down with their backs uncovered against a fire, and notwithstanding the fire has been burnt out long before morning, they continued to sleep on very comfortably, and without any inconvenience.

Islands in the Sea of KAMTCHATKA. So many of these have been discovered by the Russians, that the existence of almost a continued chain of islands between the continents of Asia and America is now rendered extremely probable. Many further discoveries of great importance to science, however, remain yet to be made. The principal islands already known are the Kuril isles, which stretch southwest towards the coasts of China or Japan, and are almost uninhabited; those called *Beer-ing's*, and *Copper-islands*, the Aleutian isles, and Fox-islands, or *Lyssie Ostrova*, lie almost directly east, stretching nearly to 230° of longitude east from Ferro. The first project of making discoveries in that tempestuous sea which lies between Kamtchatka and America was set on foot by Peter the Great of Russia. Captains Beering and Tschirikoff were employed in the undertaking; the former of whom was shipwrecked and died on the island which is still called by his name. As this lies at no great distance from Kamtchatka, the inhabitants of the latter soon ventured over to it, as the sea-otters and other animals of that kind were accustomed to resort thither in great numbers.

16
Copper
island de-
scribed.

Mednoi Ostroff, or Copper-island, which lies in full sight of Beering's island, was next visited. This island has its name from the great quantity of copper with which the north-east coast of it abounds, the only side

N° 171.

which is known to the Russians. It is washed up by the Kamtchatka sea, and covers the shores in such abundance that many ships might be loaded with it. Perhaps an India trader might make a profitable voyage from thence to China, where this metal is in high demand. This copper is mostly in a metallic or malleable state, and many pieces seem as if they had formerly been in fusion. The island is not high; but has many hillocks, each of which has the appearance of having formerly been a volcano. With this kind of hillocks all the islands in the sea of Kamtchatka abound, insomuch that not a single island, though ever so small, was found without one; and many of them consisted of nothing else. In short, all the chain of islands above mentioned may without any stretch of imagination be considered as thrown up by some late volcanoes. The apparent novelty of every thing seems to justify this conjecture: nor can any objection be derived from the vegetable productions with which these islands abound; for the summer after the lower district of Zutphen in Holland was gained from the sea, it was covered over with wild mustard.—All these islands are subject to frequent and violent earthquakes, and abound in sulphur. We are not informed whether any lava is found upon them; but a party-coloured stone as heavy as iron, probably a lava, is mentioned as being found there. From this account it is by no means improbable that the copper above mentioned has been melted in some eruption.

Beering's island is situated due east from Kamtchatka, in the 185th degree of longitude; and Copper-island about one degree more to the eastward, and in the latitude of 54° north. The former is from 70 to 80 versts long, and stretches from north-west to south-east in the same direction as Copper-island. The latter is about 50 versts in length. About 300 versts east-by-south of Copper-island lie the Aleutian isles; of which Attak is the nearest: it is rather larger than Beering's island, and stretches from west to south-east. From thence about 20 versts eastwards is situated Semitski, extending from west to east; and near its extremity is another small island. To the south of the strait which separates the two latter islands, and at the distance of 40 versts from both of them, lies Shimiya in a similar position, and not above 25 versts in length. All these islands lie between 54 and 55 degrees of north latitude.

17
Beering's
island and
the Aleu-
tian isles.

The Fox islands are situated east-north-east from the Aleutians: the nearest of these, Atchak, is about 800 versts distant; it lies in 56° north latitude, and extends from west-south-west, towards east-north-east. It greatly resembles Copper-island, and is provided with a commodious harbour on the north. From thence all the other islands of this chain stretch in a direction towards north-east by east. The next to Atchak is Amlak, and about 15 versts distant; it is nearly of the same size, and has an harbour on its south side. Next follows Saugagamak, at about the same distance, but somewhat smaller; from thence is 50 versts to Amuchta, a small rocky island; and the latter to Yunakfan, another small island. About 20 versts from Yunakfan there is a cluster of five small islands, or rather mountains, Kigalgist, Kagamila, Tsigulac, Ulaga, and Tana Unok; and which are therefore called by the Russians

18
Fox islands.

Kamtchatka. fians *Pat Sopki*, or the Five Mountains. Of these Tana-Unok lies most to the north-east, towards which the western point of Umnak advances within the distance of 20 versts.

Umnak stretches from south-west to north-east; it is 150 versts in length, and has a very considerable bay on the west end of the northern coast, in which there is a small island, or rock, called *Adugak*; and on the south side Shemalga, another rock. The western point of Aghunalashka, or Unalashka, is separated from the east end of Umnak by a strait near 20 versts in breadth. The position of these two islands is similar; but Aghunalashka is much the largest, and is above 200 versts long. It is divided towards the north-east into three promontories, one of which runs out in a westerly direction, forming one side of a large bay on the north coast of the island: the second stretches out north-east, ends in three points, and is connected with the island by a small neck of land. The third, or most southerly one, is separated from the last-mentioned promontory by a deep bay. Near Unalashka towards the east lies another small island called *Shirkin*. About 20 versts from the north-east promontory of Aghunalashka lie four islands: the first, Akutan, is about half as big as Umnak; a verst further is the small island Akun; a little beyond is Akunok; and lastly, Kigalga, which is the smallest of these four; and stretches with Akun and Akunok almost from north to south. Kigalga is situated about the 61st degree of latitude. About 100 versts from thence lies an island called *Unimak*, upon which a Russian navigator (Captain Krenitzin) wintered; and beyond it the inhabitants said there was a large tract of country called *Alashka*, of which they did not know the boundaries.

The Fox-islands are in general very rocky, without containing any remarkably high mountains: they are destitute of wood; but abound in rivulets and lakes, which are mostly without fish. The winter is much milder than in Siberia; the snow seldom falls before the beginning of January, and continues on the ground till the end of March. There is a volcano in Amuchta, and sulphur is produced on another island; in some others are springs hot enough to boil provisions. Sulphureous flames also are sometimes seen at night upon the mountains of Unalashka and Akutan.

19 Manners, &c. of the inhabitants. The Fox-islands are tolerably populous in proportion to their size. The inhabitants are entirely free, and pay tribute to no one; they are of a middle stature, and live, both in summer and winter, in holes dug in the earth. No signs of religion were found among them. Several persons indeed pass for forcerers, pretending to know things past and to come; and are accordingly held in high esteem, but without receiving any emolument. Filial duty and respect towards the aged are not held in estimation by these islanders. They are not, however, deficient in fidelity towards each other; they are of a lively and cheerful temper, though rather impetuous, and naturally prone to anger. In general, they do not observe any rules of decency; but follow all the calls of nature publicly and without the least reserve. Their principal food consists in fish, and other sea-animals, small shell-fish, and sea-plants; their greatest delicacies are wild lilies and

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other roots, together with different kinds of berries. When they have laid in a store of provisions, they eat at any time of the day without distinction; but in case of necessity, they are capable of fasting several days together. They seldom heat their dwellings: but when they are desirous of warming themselves, they light a bundle of hay, and stand over it; or else they set fire to train-oil, which they pour into a hollow stone. They feed their children when very young with the coarsest flesh, and for the most part raw. If an infant cries, the mother immediately carries it to the sea-side, and, be it summer or winter, holds it naked in the water until it is quiet. This custom, it is said, is so far from doing the children any harm, that it hardens them against the cold; and accordingly they go barefooted through the winter without the least inconvenience. They are also trained to bathe frequently in the sea; and it is an opinion generally received among the islanders, that by these means they are rendered bold and fortunate in fishing.

The men wear shirts made of the skins of cormorants, sea-divers, and gulls; and in order to keep out the rain, they have upper garments of the bladders and other intestines of sea-lions, sea-calves, and whales, blown up and dried. They cut their hair in a circular form quite close to their ears; and shave also a round place on the top. The women, on the contrary, let the hair descend over the forehead as low as the eyebrows, and tie the remaining part in a knot upon the top of the head. They pierce the ears, and hang in them bits of coral, which they get from the Russians. Both sexes make holes in the gristles of their noses, and in the under-lips, in which they thrust pieces of bone, and are very fond of such kind of ornaments. They mark also and colour their faces with different figures. They barter among one another sea-otters, sea-bears, clothes made of birds skins and of dried intestines, skins of sea-lions and sea-calves for the coverings of their canoes, wooden masks, darts, thread made of sinews and hair of reindeer.

Their household utensils are square pitchers and large troughs, which they make out of the wood driven ashore by the sea. Their weapons are bows and arrows pointed with flint, and javelins of two yards in length, which they throw from a small board. Instead of hatchets, they use crooked knives of flint or bone. Some iron knives, hatchets, and lances, were observed among them, which they had probably got by plundering the Russians.

According to the reports of the oldest inhabitants of Umnak and Unalashka, they have never been engaged in any war, either amongst themselves or with their neighbours, except with the people of Alashka, the occasion of which was as follows. The son of the toigon or chief of Umnak had a maimed hand; and some inhabitants of Alashka, who came to visit upon that island, fastened to his arm a drum, out of mockery, and invited him to dance. The parents and relations of the boy were offended at this insult: hence a quarrel ensued; and from that time the people have lived in continual enmity, attacking and plundering each other by turns. According to the reports of the islanders, there are mountains upon Alashka, and woods of great extent at some distance from the coast. The natives

Kamtchat-
ka.

tives wear clothes made of the skins of reindeer, wolves, and foxes; and are not tributary to any of their neighbours. The inhabitants of the Fox-islands seem to have no knowledge of any country beyond Alashka, which is one of the most easterly islands yet discovered in these seas, and is probably not far distant from the continent of America.

Feasts are very common among these islanders; and more particularly when the inhabitants of one island are visited by those of the others. The men of the village meet their guests, beating drums, and preceded by the women who sing and dance. At the conclusion of the dance, the hosts invite them to partake of the feasts; after which ceremony, the former return first to their dwellings, place mats in order, and serve up their best provision. The guests next enter, take their places, and, after they are satisfied, the diversions begin. First, the children dance and caper, at the same time making a noise with their small drums, while the owners of the huts of both sexes sing. Next, the men dance almost naked, tripping after one another, and beating drums of a larger size: when these are weary, they are relieved by the women, who dance in their clothes, the men continuing in the mean time to sing and beat their drums. At last the fire is put out which had been kindled for the ceremony. The manner of obtaining fire is by rubbing two pieces of dry wood against each other, or most commonly by striking two flints together, and letting the sparks fall upon some sea-otter's hair mixed with sulphur. If any forcerer is present, it is then his turn to play his tricks in the dark; if not, the guests immediately retire to their huts, which are made, on that occasion, of their canoes and mats. The natives who have several wives do not withhold them from their guests; but where the owner of the hut has himself but one wife, he then makes the offer of a female servant.

Their hunting season is principally from the end of October to the beginning of December; during which time they kill great numbers of young sea-bears for their clothing. They pass all December in feasting and diversions similar to those above mentioned: with this difference, however, that the men dance in wooden-masks, representing various sea-animals, and painted red, green, or black, with coarse-coloured earths found upon these islands.

During these festivals, they visit each other from village to village, and from island to island. The feasts concluded, masks and drums are broken to pieces, or deposited in caverns among the rocks, and never afterwards made use of. In spring, they go out to kill old sea-bears, sea-lions, and whales. During summer, and even in winter when it is calm, they row out to sea, and catch cod and other fish. Their hooks are of bone; and for lines they make use of a string made of a long tenacious sea-weed, which is sometimes found in those seas, near 160 yards in length.

Whenever they are wounded in any encounter, or bruised by any accident, they apply a sort of yellow root to the wound, and fast for some time. When their head aches, they open a vein in that part with a stone-lancet. When they want to glue the points of their arrows to the shafts, they strike their nose till it bleeds, and use the blood as glue.

Murder is not punished among them; for they have

no judge. The following ceremonies are used in the burial of the dead. The bodies of poor people are wrapped up in their own clothes, or in mats; then laid in a grave, and covered over with earth. The bodies of the rich are put, together with their clothes and arms, in a small boat made of the wood driven ashore by the sea: this boat is hung upon poles placed crosswise; and the body is thus left to rot in the open air.

The customs and manners of the inhabitants of the Aleutian isles are nearly similar to those of the inhabitants of the Fox-islands. The former indeed are rendered tributary and entirely subject to Russia; and most of them have a slight acquaintance with the Russian language, which they have learned from the crews of the different vessels who have landed there.

KAN, or KHAN, the name of an officer in Persia, answering to that of governor in Europe.—There are kans of provinces, countries, and cities, who have different additions to distinguish them.

KANGUROO. See DIDELPHIS.

KANISCA, a very strong town of Lower Hungary, capital of the county of Selawar. It was taken by the Imperialists in 1690. It is seated on the river Drave, in E. Long. 17. 37. N. Lat. 46. 23.

KAN-TCHEOU-FOU, a flourishing town of China, in the province of Kiang-si. Its rivers, port, riches, and population, all contribute to attract strangers. A day's journey from this city is a very rapid current, almost 20 leagues in length, which flows with great impetuosity over a number of scattered rocks that are level with the water. Travellers here are in great danger of being lost, unless they take care to be conducted by one of the pilots of the country; after this passage, the river becomes twice as large as the Seine at Rouen; it is continually covered with loaded barks and other vessels under sail.—Near the walls of the city is a very long bridge, composed of 130 boats joined together by strong iron chains. The custom-house is upon this bridge, where a receiver constantly resides to visit all barks, and examine if they have paid the duties imposed on the commodities with which they are loaded. Two or three moveable boats are so placed, that by their means the bridge can be opened or shut, to give or refuse a passage; and no barks are ever permitted to pass until they have been examined. In the territory belonging to this city, a great number of those valuable trees grow, from which varnish distils. Its district is extensive, and contains 12 cities of the third class.

KAOLIN, the name of an earth which is used as one of the two ingredients in oriental porcelain. Some of this earth was brought from China, and examined by Mr Reaumur. He found that it was perfectly infusible by fire, and believed that it is a talky earth; but Mr Macquer observes, that it is more probably of an argillaceous nature, from its forming a tenacious paste with the other ingredient called *petuntse*, which has no tenacity. Mr Bomare says, that by analysing some Chinese kaolin, he found it was a compound earth consisting of clay, to which it owed its tenacity; of calcareous earth, which gave it a mealy appearance; of sparkling crystals of mica; and of small gravel, or particles of quartz-crystals. He says, that he has found a similar earth upon a stratum of granite, and conjectures that it may be a decomposed granite. This conjecture

Kan
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Kaolin.

Kaout-
chouk
||
Kareck.

jecture is the more probable, as kaolins are frequently found in the neighbourhood of granites. See PORCE-LAIN.

KAOUTCHOUK. See CAOUTCHOUC.

KARAITES. See CARAITES.

KARAT. See CARACT.

KARECK, an island in the Persian Gulf, lately subject to the Dutch. It was visited by Mr Ives in 1758. He found the south part of the island well cultivated, with agreeable fields of corn, and producing plenty of esculent vegetables. In the middle are very high hills abounding with a variety of shells. Some fragments torn from their sides afforded an opportunity of observing an immense quantity of oysters, scallop, cockle, and other shells. The common tree here is the banian, but without those luxuriant shoots, which in some other places go downward and take root in the ground. The lavender-cotton is also found here; and the island abounds with fowl of various kinds. Pearl oysters are also found here, but lie at considerable depths. Mr Ives mentions one pearl of considerable size, which had upon it a natural representation of the face of a human fetus in the early months of pregnancy.

This settlement was founded by Baron Knipphausen, brother to one of that name some time ago ambassador at the court of London. Having left the Prussian service on some disgust, he entered into that of France. He afterwards went to the East Indies, and was appointed resident to the Dutch factory at Bassora. Here he became an object to the avarice and rapacity of the Turkish governors; who having got him accused of capital crimes, he was at last glad to compound with them for 50,000 rupees, the whole sum he was worth, besides giving directions how they might squeeze other 50,000 from his successor in office (who in truth wished him turned out) and the banian who did the business of the Dutch factory, and who had likewise been concerned in underhand practices against him.

The new resident was overjoyed at his accession, but lost all patience when he found himself obliged to pay 30,000 rupees to the governor as a compliment on his entering into a post of such consequence. Nor had the banian much better reason to be satisfied, being obliged to pay down 20,000 rupees to make up the sum which was to satisfy the rapacity of the governor.

Baron Knipphausen failed from Bassora the very day after he was set at liberty; but having landed on this island, he, in conjunction with an Arabian sheick, formed the plan of the settlement. He then carried a letter from the sheick to the governor and council of Batavia, in which the former proposed to give up the sovereignty of the island. Before setting out for this place, however, the baron took care to dispatch a messenger across the desert to Constantinople, acquainting the Dutch ambassador with the treatment he had received, and requesting liberty of the grand vizier for the Dutch to settle at Kareck. The messenger returned with a favourable answer before the baron came back from Batavia. The governor of Bassora, then, having attempted in vain to persuade him to return to that place, wrote a letter of complaint to Batavia, accusing the baron in terms of the

utmost exaggeration, but without any mention of the 100,000 rupees. The baron, however, having got intelligence of this proceeding, used such diligence that he got back to Batavia in the very ship which carried the letter. Being thus present on the spot to answer the charges brought against him, he acquitted himself so well that his scheme was instantly approved of, and he was sent back with two ships and 50 men to take possession of Kareck, whose inhabitants at that time amounted to no more than 100 poor fishermen.

Considerable difficulties now occurred in the establishment of the new colony; for he had but very few materials with him, and the government of Batavia was very slow in sending him the succours they had promised. He was therefore obliged to send for workmen from Persia and Arabia, with whose assistance he built a small compact fort, strong enough to defend itself against any of the country powers and any ships usually sailing to India, excepting those of our East India company. Nor was he content with putting himself in a posture of defence, but even commenced hostilities against the Turks; and by detaining two vessels very richly laden, which happened to touch at the island, he at last obliged the governor of Bassora to pay back the 100,000 rupees he had extorted, 30,000 of which he restored to his successor in office at Bassora, and 20,000 to the banian. When Mr Ives visited him, he informs us, that surprising progress had been made during the little time the baron had held the sovereignty of the island, and that he intended to make it a strong and wealthy place; at the same time that he discovered his taste for literature by advancing a sum of money for books and instruments of various kinds, which were afterwards punctually sent. After that time, however, the baron quitted the service of the Dutch; and the island is again in possession of the sheick of Bundaric, to whom it formerly belonged. It is about five miles long and two in breadth; lying nearly in the middle of the Persian Gulf, about seven leagues from each side, and about 30 leagues from the mouth of Bassora river, where all ships bound to that port must call for pilots.

KARLE, a Saxon word used in our law, sometimes simply for a man; and sometimes, with an addition, for a servant or clown. Thus the Saxons call a seaman *buscarli*, and a domestic servant *buscarle*. From hence comes the modern word *churl*.

KARMATIANS, a sect of Mohammedans, who occasioned great disorders in the empire of the Arabs. See BAGDAD, n° 49.

KASTRIL, or KESTRIL. See FALCO.

KATTEGATTE, a noted sea lying between part of Jutland and the coast of Sweden, and towards the latter covered with a great number of isles. It is almost closed at the extremity by the low Danish islands of Sealand and Funen, which had in old times been (with Sweden) the seat of the Suiones. Between the first and the coast of Sweden is the famous sound, the passage tributary to the Danes by thousands of ships. These islands were of old called *Codonania*, and gave to the Kattegatte the name of *Sinus Codanus*. Its greatest depth is 35 fathoms. It decreases as it approaches the sound; which begins with 16 fathoms, and near Copenhagen shallows to even four. The Roman fleet, under the command of Germanicus, failed,

Kareck
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Kattegatte.

Kauff-
beuren
||
Kedron.

according to Pliny, round Germany, and even doubled the *Cimbricum Promontorium*, and arrived at the islands which fill the bottom of the Kattegatte: either by observation or information, the Romans were acquainted with it. One they called *Gleffaria*, from its amber, a fossil abundant to this day on part of the south side of the Baltic. A Roman knight was employed by Nero's master of the gladiators to collect in these parts that precious production, by which he came perfectly acquainted with this country.

KAUFFBEUREN, a free and imperial town of Germany, situated in the river Wardach, in E. Long. 10. 53. N. Lat. 47. 57.

KAY, QUAY, or Key. See KEY.

KAZY, in the East Indies, a Mahometan judge or magistrate; appointed originally by the court of Delhi to administer justice according to their written law; but particularly in matters relative to marriages, the sales of houses, and transgressions of the Koran. He attests or authenticates writings, which under his seal are admitted as the originals in proof.

KEBLA, an appellation given by the Mahometans to that part of the world where the temple of Mecca is situated, towards which they are obliged to turn themselves when they pray.

KECKERMAN (Bartholomew), a native of Dantzick, and professor of philosophy there about the beginning of the 17th century, composed systems of almost all the sciences, in which he shows more method than genius. He died in 1609, fairly worn out at the age of 38 with mere scholastic drudgery.

KEDAR (anc. geog.), a district in the desert of the Saracens (so called from Cedar, the son of Ishmael, according to Jerome, who in another place says that Kedar was uninhabitable), on the north of Arabia Felix. *Kedareni*, the people; who dwelt in tents like the other Scenites (Psalm cxx.), were rich in cattle (Isaiah lx.), of a swarthy complexion (Canticles i.), and excellent at the bow (Isaiah xxi.)

KEDES (anc. geog.), a city of refuge and Levitical in the tribe of Naphthali, on the confines of Tyre and Galilee; (Josephus). Jerome calls it a sacerdotal city, situated on a mountain 20 miles from Tyre, near Paneas, and called *Cidiffus*, taken by the king of Assyria.—Another *Kedes* in the tribe of Issachar (1 Chron. vii. 72.) which seems to be called *Kifon* (Joshua xix.)

KEDGE, a small anchor, used to keep a ship steady whilst she rides in a harbour or river, particularly at the turn of the tide, when she might otherwise drive over her principal anchor, and entangle the stock or flukes with her slack-cable, so as to loosen it from the ground. This is accordingly prevented by a kedgerope that hinders her from approaching it. The Kedges are particularly useful in transporting a ship; i. e. removing her from one part of the harbour to another, by means of ropes which are fastened to these anchors. They are generally furnished with an iron stock, which is easily displaced for the convenience of moving them.

KEDRON, or CEDRON (anc. geog.), a town which, from the defeat and pursuit of the Syrians (1 Mac. xvi.), appears to have stood on the road which led from the Higher India to Azotus: in this war it was burnt by the Jews.

KEDRON, or Cedron (anc. geog.), St John calls it

a brook, but Josephus a deep valley between Jerusalem and mount Olivet to the east; called also *Kedron* from its blackness. A brook only in winter, or in rainy weather, according to Maundrel.

KEEL, the principal piece of timber in a ship, which is usually first laid on the blocks in building. If we compare the carcase of a ship to the skeleton of the human body, the keel may be considered as the backbone, and the timbers as the ribs. It therefore supports and unites the whole fabric, since the stem and stern-post, which are elevated on its ends, are in some measure a continuation of the keel, and serve to connect and inclose the extremities of the sides by transoms; as the keel forms and unites the bottom by timbers.

The keel is generally composed of several thick pieces placed lengthways, which, after being scarfed together, are bolted, and clenched upon the upper side. When these pieces cannot be procured large enough to afford a sufficient depth to the keel, there is a strong thick piece of timber bolted to the bottom thereof, called the *false keel*, which is also very useful in preserving the lower side of the main keel. In our largest ships of war, the false keel is generally composed of two pieces, which are called the *upper* and the *lower false keels*. See *MIDSHIP-Frame*.

The lowest plank in a ship's bottom, called the *garboard-streak*, has its inner-edge let into a groove or channel cut longitudinally on the side of the keel: the depth of this channel is therefore regulated by the thickness of the garboard-streak.

KEEL is also a name given to a low flat-bottomed vessel, used in the river Tyne to bring the coals down from Newcastle and the adjacent parts, in order to load the colliers for transportation.

KEEL-Hauling, a punishment inflicted for various offences in the Dutch navy. It is performed by plunging the delinquent repeatedly under the ship's bottom on one side, and hoisting him up on the other, after having passed under the keel. The blocks or pulleys by which he is suspended are fastened to the opposite extremities of the main-yard, and a weight of lead or iron is hung upon his legs, to sink him to a competent depth. By this apparatus he is drawn close up to the yard-arm, and thence let fall suddenly into the sea, where, passing under the ship's bottom, he is hoisted up on the opposite side of the vessel. As this extraordinary sentence is executed with a serenity of temper peculiar to the Dutch, the culprit is allowed sufficient intervals to recover the sense of pain, of which indeed he is frequently deprived during the operation. In truth, a temporary insensibility to his sufferings ought by no means to be construed into a disrespect of his judges, when we consider that this punishment is supposed to have peculiar propriety in the depth of winter, whilst the flakes of ice are floating on the stream; and that it is continued till the culprit is almost suffocated for want of air, benumbed with the cold of the water, or stunned with the blows his head receives by striking the ship's bottom.

KEELSON, a piece of timber which may be properly defined the interior or counter-part of the keel; as it is laid upon the middle of the floor-timbers, immediately over the keel, and like it composed of several

Keel,
Keelson.

Keeper,
Keeping.

veral pieces scarfed together. In order to fit with more security upon the floor-timbers and crotches, it is notched about an inch and a half deep, opposite to each of those pieces, and thereby firmly scored down upon them to that depth, where it is secured by spike-nails. The pieces of which it is formed are only half the breadth and thickness of those of the keel.

The keelson serves to bind and unite the floor-timbers to the keel. It is confined to the keel by long bolts, which, being driven from without through several of the timbers, are fore-locked or clenched upon rings on the upper-side of the keelson.

KEEPER OF THE GREAT SEAL, is a lord by his office, and styled *lord keeper of the great seal of Great Britain*; he is always one of the privy-council. All grants, charters, and commissions of the king under the great seal, pass through the hands of the lord-keeper; for without that seal many of those grants, &c. would be of no force; the king being, in the interpretation of the law, a corporation, and therefore passes nothing but by the great seal, which is also said to be the public faith of the kingdom, being in the highest esteem and reputation.

Whenever there is a lord-keeper, he is invested with the same place, authority, pre-eminence, jurisdiction, or execution of laws, as the lord-chancellor of Great Britain is vested with.

The lord-keeper is constituted by the delivery of the great seal, &c.

KEEPER of the Privy-seal, is also a lord by his office, through whose hands all grants, pardons, &c. pass before they come to the great seal; and even some things pass his hands which do not pass the great seal at all. This officer is also one of the privy-council, yet was anciently called *clerk of the privy-seal*. His duty is to put the seal to no grant, &c. without a proper warrant; nor with warrant where it is against law, or inconvenient, but shall first acquaint the king therewith.

KEEPING, in painting, denotes the representation of objects in the same manner that they appear to the eye at different distances from it; for which the painter should have recourse to the rules of perspective. There are two instances in which the famous Raphael Urbin has transgressed these rules: in one of his cartons, representing the miraculous draught of fishes, the men in each of the two boats appear of full size, the features of their faces being strongly marked; and the boats are represented so small, and the men so big, that any one of them appears sufficient to sink either of the boats by his own bare weight: and the fowls on the shore are also drawn so big, as to seem very near the eye of the observer, who could not possibly, in that case, distinguish the features of the men in the distant boats. Or, supposing the observer to be in either of the boats, he could not see the eyes or beaks of the fowls on the shore. The other instance occurs in his historical picture of our Saviour's transfiguration on the mount; where he is represented with those who were then with him, almost as large as the rest of his disciples at the foot of the mount, with the father and mother of the boy whom they brought to be cured; and the mother, though on her knees, is more than half as tall as the mount is high. So that the mount appears only of the size of a little hay-rick, with a few

people on its top, and a greater number at its bottom on the ground; in which case, a spectator at a little distance could as well distinguish the features of those at the top as of those on the ground. But upon any large eminence, deserving the name of a mount, that would be quite impossible.

KEIL, a very important fortress of Germany, seated on the banks of the Rhine, built by the French after a design of marshal Vauban, for the defence of Strasbourg. It was ceded to the empire in 1697, by the treaty of Ryswick. The French retook it in 1703, and it was restored to the empire by the treaty of Rastadt. E. Long. 7. 45. N. Lat. 48. 40.

KEILL (Dr John), a celebrated astronomer and mathematician, was born at Edinburgh in 1671, and studied in the university of that city. In 1694 he went to Oxford; where, being admitted of Baliol college, he began to read lectures according to the Newtonian system in his private chamber in that college. He is said to have been the first who taught Sir Isaac Newton's principles by the experiments on which they are founded: and this, it seems, he did by an apparatus of instruments of his own providing, by which means he acquired a great reputation in the university. The first specimen he gave the public of his skill in mathematical and philosophical knowledge, was his *Examination of Dr Burnet's theory of the earth*, with *Remarks on Mr Whiston's theory*: and these theories being defended by their respective inventors, drew from Mr Keill *An examination of the reflections on the theory of the earth*, together with *A defence of the remarks on Mr Whiston's new theory*. In 1701, he published his celebrated treatise, intitled, *Introductio ad veram physicam*, which only contains 14 lectures; but in the following editions he added two more. This work has been translated into English, under the title of *An introduction to natural philosophy*. Afterwards, being made fellow of the Royal Society, he published, in the Philosophical Transactions, a paper, of the laws of attraction; and being offended at a passage in the *Acta eruditorum* of Leipzig, warmly vindicated against Mr Leibnitz Sir Isaac Newton's right to the honour of the first invention of his method of fluxions. In 1709 he went to New-England as treasurer of the Palatines. About the year 1711, several objections being urged against Sir Isaac Newton's philosophy, in support of Des Cartes's notions of a plenum, Mr Keill published a paper in the Philosophical Transactions on the rarity of matter, and the tenuity of its composition. But while he was engaged in this dispute, queen Anne was pleased to appoint him her decypherer; and he continued in that place under king George I. till the year 1716. He had also the degree of doctor of physic conferred on him by the university of Oxford in 1713. He died in 1721. He published, besides the works already mentioned, *Introductio ad veram astronomiam*, which was translated into English by Dr Keill himself; and an edition of Commandinus's Euclid, with additions of his own.

KEILL (James), M. D. an eminent physician, and brother of the former, was born in Scotland about the year 1673; and having travelled abroad, read lectures of anatomy with great applause in the universities of Oxford and Cambridge, by the latter of which he had the degree of doctor of physic conferred upon him.

Keil,
Keill.

Keisersberg
||
Keith.

In 1700 he settled at Northampton, where he had considerable practice as a physician; and died there of a cancer in the mouth in 1719. He published, 1. An English translation of Lemery's chemistry. 2. An account of animal secretion, the quantity of blood in the human body, and muscular motion. 3. A treatise on anatomy. 4. Several pieces in the Philosophical Transactions.

KEISERSBERG, a town of Alsace in France, and in the bailiwick of Haguenau, which has belonged to the French ever since the year 1548. It is seated in a pleasant country, in E. Long. 7. 25. N. Lat. 48. 10.

KEISERSLAUERN, a town of Germany, in the Lower Palatinate, belonging to the elector Palatine; seated on the river Louter, in E. Long. 7. 51. N. Lat. 49. 22.

KEISERTOUL, a town of Switzerland, in the county of Baden, with a bridge over the Rhine, and a castle. It belongs to the bishop of Constance, and is situated in E. Long. 8. 40. N. Lat. 47. 10.

KEISERWERT, a town of Germany in the circle of Westphalia, the diocese of Cologne, and the duchy of Berg; subject to the elector Palatine. The fortifications are demolished. It is seated on the Rhine, in E. Long. 6. 49. N. Lat. 51. 16.

KEITH (James), field-marshal in the Prussian service, was the younger son of William Keith, earl-marshal of Scotland; and was born in 1696. He was designed by his friends for the law; but his inclination led to arms, and the first occasion of drawing his sword was rather an unhappy one. When he was 18 years old the rebellion broke out in Scotland; and through the instigation of his mother, he joined James's party: he was wounded at the battle of Sheriff-muir, and made his escape to France. Here he applied himself to military studies; and going to Madrid, he by the interest of the duke of Liria obtained a commission in the Irish brigades, then commanded by the duke of Ormond. He afterwards attended the duke of Liria, when he went ambassador to Muscovy; and being by him recommended to the czarina, was promoted to the rank of lieutenant-general, and invested with the order of the black eagle. He distinguished himself by his valour and conduct in the Russian service, and had no inconsiderable share in the revolution that raised Elizabeth the daughter of Peter the Great to the throne: he also served in several embassies; but finding the honours of that country but a splendid kind of slavery, he left that court and entered the Prussian service. The king of Prussia made him field-marshal of the Prussian armies, and governor of Berlin; and distinguished him so far by his confidence, as to travel in disguise with him over a great part of Germany, Poland, and Hungary. In business, he made him his chief counsellor; in his diversions, his chief companion. The king was much pleased with an amusement which the marshal invented in imitation of the game of chess. The marshal ordered several thousand small statues of men in armour to be cast by a founder; these he would set opposite to each other, and range them in battalia, in the same manner as if he had been drawing up an army; he would bring out a party from the wings or centre, and show the advantage or disadvantage resulting from the different draughts which

he made. In this manner the king and the marshal often amused themselves, and at the same time improved their military knowledge. This brave and experienced general, after many important services in the late wars of that illustrious monarch, was killed in the unfortunate affair of Hohenkerchen in the year 1758.

The family of Keith was among the most ancient in Europe. In 1010 the Scots gained a complete victory over the Danes at Camus town in Angus; King Malcolm II. as a reward for the signal bravery of a certain young nobleman who pursued and killed Camus the Danish general, bestowed on him several lands, particularly the barony of Keith in East Lothian, from which his posterity assumed their surname. The king also appointed him hereditary great marshal of Scotland, which high office continued in his family till the year 1715, when the last earl engaged in the rebellion and forfeited his estate and honours; and thus ended the family of Marischal, after serving their country in a distinguished capacity above 700 years.

KELLINGTON, or **KILKHAMPTON**, a town of Cornwall in England, which sends two members to parliament. W. Long. 4. 38. N. Lat. 50. 36.

KELLS, a fair and post-town of Ireland, in the county of Meath and province of Leinster, 31 miles from Dublin. It is a borough likewise, and returns two members to parliament; patron earl of Beccles. This place gives title of viscount to the family of Cholmondeley. Near it is Headfort, the magnificent seat of Lord Beccles. This town is pleasantly situated on the river Blackwater, and has four fairs. It was anciently called *Kenanus*, and afterwards *Kenlis*. In former ages it was one of the most famous cities in the kingdom; and on the arrival of the English was walled and fortified with towers. In 1178 a castle was erected where the market-place now is; and opposite to the castle was a cross of an entire stone, ornamented with bas-relief figures and many curious inscriptions in the ancient Irish character. Within a small distance was the church of St Senan; and on the south of the churchyard is a round tower which measures 99 feet from the ground, the roof ending in a point; and near the top were four windows opposite to the cardinal points. There was a celebrated monastery founded here in 550 for regular canons, and dedicated to the Virgin Mary. It owed its origin to St Columb, to whom the site of the abbey was granted by Dermot Mac Carval, or Dermot the son of Kervail king of Ireland. An episcopal see was afterwards erected here, which in the 13th century was united to that of Meath. A priory or hospital was also erected by Walter de Lacie, lord of Meath, in the reign of Richard I. for cross-bearers or crouched friars following the order of St Augustin. There was likewise a perpetual chantry of three priests or chaplains in the parish-church of St Columb in Kells to celebrate mass daily; one in the Rood chapel, another in St Mary's chapel, and a third in the chapel of St Catherine the virgin.

KELLS is also the name of a village, being a post and fair town in the county of Kilkenny, 64 miles from Dublin. It is an ancient place, situated on Kings river; and was noted for a priory of Augustines, built and richly endowed by Geoffroy Fitz-Roberts, who came

Kellington,
Kells.

Kelly.

came into this kingdom with Strongbow. The prior of this place had the title of *lord spiritual*, and as such sat in the house of peers before the Reformation; the ruins only of this abbey now remain: a synod was held in it anno 1152, when John Paparo, legate from Rome, made one of the number of bishops that were convened there at that time to settle the affairs of the church. The present church is built in the Gothic manner. Fairs held 13th July.

There is a third place of the above name, situated in the county of Antrim and province of Ulster, 89 miles from Dublin, near which are the ruins of a church: this place is but a small village, seated on a river of the same name, over which it has a bridge.

KELLY (Hugh), an author of considerable repute, was born on the banks of Killarney lake in Ireland in 1739. His father, a gentleman of good family, having reduced his fortune by a series of unforeseen misfortunes, was obliged to repair to Dublin that he might endeavour to support himself by his personal industry. A tolerable school education was all he could afford to his son; who was bound an apprentice to a staymaker, and served the whole of his time with diligence and fidelity. At the expiration of his indentures, he set out for London to procure a livelihood by his business; where he encountered all the difficulties a person poor and without friends could be subject to on his first arrival in town. Happening, however, to become acquainted with an attorney, he was employed by him in copying and transcribing; an occupation which he prosecuted with so much assiduity, that he is said to have earned about three guineas a-week, an income which, compared to his former gains, might be deemed affluent. Tired, however, of this drudgery, he soon after, about 1762, commenced author, and was intrusted with the management of the *Lady's Museum*, the *Court Magazine*, the *Public Ledger*, the *Royal Chronicle*, *Owen's Weekly Post*, and some other periodical publications, in which he wrote many original essays and pieces of poetry, which extended his reputation, and procured the means of subsistence for himself, his wife to whom he was then lately married, and a growing family. For several years after this period, he continued writing upon a variety of subjects, as the accidents of the times chanced to call for the assistance of his pen; and as during this period politics were the chief objects of public attention, he employed himself in composing many pamphlets on the important questions then agitated, the greater part of which are now buried in oblivion. Among these, however, was a *Vindication of Mr Pitt's Administration*, which Lord Chesterfield makes honourable mention of in the second volume of his letters. In 1767, the *Babler* appeared in two pocket volumes, which had at first been inserted in *Owen's Weekly Chronicle* in single papers; as did the *Memoirs of a Magdalene*, under the title of *Louisa Mildmay*. About 1767 he was tempted by the success of Churchill's *Rosciad* to write some strictures on the performers of either theatre, in two pamphlets, intitled *Thestis*, both which gave great offence to some of the principal persons at each house. The talents for satire, which he displayed in this work, recommended him to the notice of Mr Garrick, who in the next year caused his first play of *False Delicacy* to be acted at Drury-Lane. It was received with great

applause; and from this time he continued to write for the stage with profit and success, until the last period of his life. As his reputation increased, he began to turn his thoughts to some mode of supporting his family less precarious than by writing, and for that purpose entered himself a member of the Middle Temple. After the regular steps had been taken, he was called to the bar in 1774, and his proficiency in the study of the law afforded promising hopes that he might make a distinguished figure in that profession. His sedentary course of life had, however, by this time injured his health, and subjected him to much affliction. Early in 1777 an abscess formed in his side, which after a few days illness put a period to his life. He was the author of six plays besides that above-mentioned.

KELP, in the glass-trade, a term used for a sort of potashes made use of in many of the glass-works, particularly for the green glass. It is the calcined ashes of a plant called by the same name; and in some places, of sea-thongs or laces, a sort of thick-leaved fucus or sea-wrack*. This plant is thrown on the rocks and shores in great abundance, and in the summer months is raked together and dried as hay in the sun and wind, and afterwards burnt to the ashes called *kelp*. The process of making it is thus: The rocks, which are dry at low water, are the beds of great quantities of sea-weed; which is cut, carried to the beach, and dried: a hollow is dug in the ground three or four feet wide; round its margin are laid a row of stones, on which the sea-weed is placed, and set on fire within, and quantities of this fuel being continually heaped upon the circle, there is in the centre a perpetual flame, from which a liquid like melted metal drops into the hollow beneath: when it is full, as it commonly is ere the close of day, all heterogeneous matter being removed, the kelp is wrought with iron rakes, and brought to an uniform consistence in a state of fusion. When cool, it consolidates into a heavy dark-coloured alkaline substance, which undergoes in the glass-houses a second vitrification, and assumes a perfect transparency; the progress by which thus a parcel of sea-weed, formerly the slimy bed of seals or dreary shelter of shell-fish, is converted into a crystal lustre for an assembly-room, or a set of glasses for his majesty's table, is a metamorphosis that might be a subject for an entertaining tale.

KELSO, a town of Roxburghshire in Scotland, pleasantly situated on the river Tweed, in W. Long. 1. 20. N. Lat. 55. 38. Of this town Mr Pennant gives the following description. It is built much after the manner of a Flemish town, with a square and town-house. It contains about 2700 souls, has a very considerable market, and great quantities of corn are sold here weekly by sample. The abbey of Tyronensians was a vast pile, and, to judge by the remains, of venerable magnificence. The walls are ornamented with false round arches, intersecting each other. Such intersections form a true Gothic arch; and may as probably have given rise to that mode as the arched shades of avenues. The steeple of the church is a vast tower. This house was founded by David I. when earl of Cumberland. He first placed it at Selkirk, then removed it to Roxburgh, and finally, when he came to the crown, fixed it here in 1128. Its revenues were in money above 2000 l. Scots a-year. The abbot

Kelp,
Kello.* See *Fucus*.

Kempis
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Kempton.

abbot was allowed to wear a mitre and pontifical robes; to be exempt from episcopal jurisdiction, and permitted to be present at all general councils. The environs of Kelso are very fine: the lands consist of gentle risings, inclosed with hedges, and extremely fertile. They have much reason to boast of their prospects. From the Chalkheugh is a fine view of the forks of the rivers, Roxburgh-hill, Sir John Douglas's neat seat, and at a distance Fleurus; and from Pinnacle-hill is seen a vast extent of country, highly cultivated, watered with long reaches of the Tweed, well wooded on each margin. These borders ventured on cultivation much earlier than those on the west and east, and have made great progress in every species of rural economy. Turnips and cabbages for the use of cattle cover many large tracts; and potatoes appear in vast fields. Much wheat is raised in the neighbourhood, part of which is sent up the frith of Forth, and part into England. The fleeces here are very fine. The wool is sent into Yorkshire, to Linlithgow, or into Aberdeenshire, for the stocking manufacture; and some is woven here into a cloth called *plains*, and sold into England to be dressed. Here is also a considerable manufacture of white leather, chiefly to supply the capital of Scotland. At Kelso there is a fine stone-bridge of six arches over the Tweed near its confluence with the Teviot.

KEMPIS (Thomas à), a pious and learned regular canon, was born at the village of Kemp, in the diocese of Cologne, in 1380; and took his name from that village. He performed his studies at Deventer, in the community of poor scholars established by Gerard Groot; and there made a great progress in the sciences. In 1399, he entered the monastery of the regular canons of Mount St Agnes, near Zwol, of which his brother was prior. Thomas à Kempis there distinguished himself by his eminent piety, his respect for his superiors, his charity to his brother canons, and his continual application to labour and prayer. He died in 1471, aged 70. The best editions of his works, which consist of sermons, spiritual treatises, and lives of holy men, are those of Paris in 1649, and of Antwerp in 1607. The famous and well-known book *De Imitatione Christi*, which has been translated into almost all the languages of the world, though it has almost always been numbered among the works of Thomas à Kempis, is also found printed under the name of *Gerson*; and on the credit of some MSS. has been since ascribed to the abbot Gerson of the order of St Benedict. This has occasioned a violent dispute between the canons of St Augustine and the Benedictines: but while devout Christians find spiritual comfort in the work, the name of the writer is of small importance.

KEMPTEN, a free and imperial town of Germany, in Lower Suabia, and in Algow, and also in the territory of the abbot of Kempton, who is a prince of the empire, and has a voice in the diet. The inhabitants are Protestants; and it has been several times taken, but has always recovered its liberty. It is seated on the river Iller. E. Long. 10. 33. N. Lat. 47. 47.

KEMPTEN, a territory in the circle of Suabia, in Germany, between the bishopric of Augsburg and the N^o 171.

barony of Walburg. It is about 17 miles long and broad; and has no considerable place but the towns of Kempton and Kauffbeuren, which are imperial.

KEN (Thomas), an eminent English bishop in the 17th century, was bred at Winchester school, whence he went to Oxford; and in 1669 was made a prebend of Winchester. In 1675, the year of the Jubilee, he travelled to Rome; and used to say, He had reason to give God thanks for his travels, having returned more confirmed of the purity of the reformed religion than he was before. He was appointed by king Charles II. to attend the lord Dartmouth at the demolishing of Tangier; and at his return was made chaplain to his majesty, as he was some time after to the princess of Orange, then residing in Holland. In 1685 he was consecrated bishop of Bath and Wells. The month following he attended king Charles II. at his death; and gave close attendance at the royal bed for three whole days and nights, watching proper intervals to suggest pious and proper thoughts on so serious an occasion. In the following reign he zealously opposed the progress of Popery; and in June 1688, he, with five other bishops and the archbishop of Canterbury, was committed prisoner to the Tower of London for subscribing a petition to his majesty against the declaration of indulgence. Upon the Revolution, however, he refused to take the oaths to king William and Queen Mary, on which account he was deprived of his bishopric. Her Majesty queen Anne bestowed on him a yearly pension of 200l. to his death in 1710. He published several pious books. His charity was so great, that when he was bishop of Bath and Wells, having received a fine of 4000l. he gave a great part of it to the French Protestants.

KENDAL, a town of Westmoreland, seated in a valley, among hills, on the west side of the river Can or Ken, over which there are two stone bridges, and one of wood which leads to the castle now in ruins. It is a large handsome place; and has two long streets, which cross each other. The inhabitants have driven a trade with the cotton and woollen manufactory throughout England ever since the reign of Edw. III. and particular laws were enacted for regulating Kendal cloaths as early as Richard II. and Henry IV. It is of note also for the manufactory of cottons, druggets, ferges, hats, worsted and yarn stockings, &c. Queen Elizabeth incorporated it with aldermen and burgeses; and king James I. with a mayor, recorder, town-clerk, 12 aldermen, 24 burgeses or common councilmen, and 2 attornies. There are 7 companies here, who have each their hall, viz. mercers, sheermen, cordwainers, glovers, tanners, taylors, and pewterers. Here is an elegant town-hall lately repaired; and they enjoy a court of conscience granted by George III. for debts under 40s. It has a large beautiful church, which stands on the other side of the brook called Blindbeck, out of the liberty of the town: a large neat and handsome building 180 feet long and 99 broad, with 5 ailes each parted by a row of 8 pillars, and a strong square steeple. Near is Abbot's-hall, the residence of the abbot when this church belonged to an abbey dissolved by Henry VIII. In 1755, a new chapel was erected in the middle of the town, besides which there are 12 chapels of ease belonging

Ken,
Kend. 1

Kennel. belonging to it. The dissenters and quakers have meeting-houses. Here is a free grammar-school well endowed; and also a charity-school for 10 boys and 16 girls, who are all cloathed as well as taught. Eastward of the town, on the opposite side of the river on a hill, from whence is a fine prospect, stand the ruins of a castle, wherein was born Catherine Parr (the sixth wife of Henry VIII.) By the late inland navigation, it has communication with the rivers Mercy, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles in the counties of Lincoln, Nottingham, York, Lancaster, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c. Here are kept the sessions of the peace for this part of the county called the barony of Kendal; and there is a very great market on Saturday, with all kinds of provisions and woollen-yarn, which the girls bring hither in large bundles. It has fairs on May 6, and November 8; and between them a great beast-market every fortnight. The river here, which runs half through the town in a stony channel, abounds with trout and salmon; and on the banks of it live the dyers and tanners.

KENNEL, a term used indifferently for a puddle, a water-course in the streets, a house for a pack of hounds, and the pack or cry of hounds themselves.

Mr Beckford, in his Essay on Hunting, is very particular in describing a kennel for hounds; and a kennel he thinks indispensably necessary for keeping those animals in proper health and order. "It is true (says he) hounds may be kept in barns and stables; but those who keep them in such places can best inform you whether their hounds are capable of answering the purposes for which they are designed. The sense of smelling is so exquisite in a hound, that I cannot but suppose that every stench is hurtful to it. Cleanliness is not only absolutely necessary to the nose of the hound, but also to the preservation of his health. Dogs are naturally cleanly; and seldom, if they can help it, dung where they lie. Air and fresh straw are necessary to keep them healthy. They are subject to the mange; a disorder to which poverty and nastiness will very much contribute. The kennel should be situated on an eminence; its front ought to be to the east, and the courts round it ought to be wide and airy to admit the sunbeams at any time of the day. It is proper that it should be neat without and clean within; and it is proper to be near the master's house, for obvious reasons. It ought to be made large enough at first, as any addition to it afterwards may spoil it in appearance at least." Two kennels, however, in our author's opinion, are absolutely necessary to the well-being of hounds: "When there is but one (says he), it is seldom sweet; and when cleaned out, the hounds, particularly in winter, suffer both while it is cleaning and afterwards as long as it remains wet."

When the feeder first comes to the kennel in a morning, he should let out the hounds into the outer court; and in bad weather, should open the door of the hunting kennel (that in which the hounds designed to hunt next day are kept), lest want of rest should incline them to go into it. The lodging room should then be cleaned out, the doors and windows of it opened, the litter shaken up, and the kennel made sweet and clean before the hounds return to it again.—

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The floor of each lodging-room should be bricked, and sloped on both sides to run to the centre, with a gutter left to carry off the water, that when they are washed they may soon be dry. If water should remain through any fault in the floor, it must be carefully mopped up; for damps are always very prejudicial.

The kennel ought to have three doors; two in the front and one in the back; the last to have a lattice-window in it with a wooden shutter, which is constantly to be kept closed when the hounds are in, except in summer, when it should be left open all the day.

At the back of Mr Beckford's kennel is a house thatched and furzed up on the sides, big enough to contain at least a load of straw. Here should be a pit ready to receive the dung, and a gallows for the flesh. The gallows should have a thatched roof, and a circular board at the posts to prevent vermin from climbing up. He advises to inclose a piece of ground adjoining to the kennel for such dog-horses as may be brought alive; it being sometimes dangerous to turn them out where other horses go, on account of the disorders with which they may be infected. In some kennels a stove is made use of; but where the feeder is a good one, Mr Beckford thinks that a mop properly used will render the stove unnecessary. "I have a little hay rick (says he) in the grass-yard, which I think is of use to keep the hounds clean and fine in their coats. You will frequently find them rubbing themselves against it. The shade of it is also useful to them in summer. If ticks at any time be troublesome in your kennel, let the walls of it be well washed; if that should not destroy them, the walls must then be white-washed."

Besides the directions already given concerning the situation of the kennel, our author recommends it to have a stream of water in its neighbourhood, or even running through it if possible. There should also be moveable stages on wheels for the hounds to lie on. The soil ought at all events to be dry.

To KENNEL, a term applied by fox-hunters to a fox when he lies in his hole.

KENNET (Dr White), a learned English writer and bishop of Peterborough, in the 18th century, bred at St Edmund-hall, Oxford; where he soon distinguished himself by his vigorous application to his studies, and by his translations of several books into English, and other pieces which he published. In 1695 our author published his *Parochial Antiquities*. A sermon preached by him on the 30th of January 1703 at Aldgate exposed him to great clamour. It was printed under the title of *A compassionate inquiry into the causes of the civil war*. In 1706, he published his *Case of Impropriations*, and two other tracts on the same subject. In 1706, he published the third volume of *The Complete History of England* (the two former volumes compiled by Mr Hughes). In 1709, he published *A Vindication of the Church and Clergy of England from some late reproaches rudely and unjustly cast upon them*; and *A true Answer to Dr Sacheverel's Sermon*. When the great point in Dr Sacheverel's trial, the change of the ministry, was gained, and very strange addresses were made upon it, there was to be an artful address from the bishop and clergy of London, and they who would not subscribe it were to be represented as enemies to the queen and the ministry. Dr Kennet fell under this imputation. He was exposed

Kennel, Kennet.

Kennet, Kennicott. to great odium as a low church man, on account of his conduct and writings. When he was dean of Peterborough, a very uncommon method was taken to expose him by Dr Walton, rector of the church of White-chapel: for in the altar-piece of that church, which was intended for a representation of Christ and his 12 apostles eating the passover and last supper, Judas the traitor was drawn sitting in an elbow-chair, dressed in a black garment, with a great deal of the air of Dr Kennet's face. It was generally said that the original sketch was for a bishop under Dr Walton's displeasure; but the painter being apprehensive of an action of *Scandalum Magnatum*, leave was given to drop the bishop, and make the dean. This giving general offence, upon the complaint of others (for Dr Kennet never saw it, or seemed to regard it), the bishop of London ordered the picture to be taken down. In 1713, he presented the society for propagating the gospel with a great number of books, suitable to their design; published his *Bibliotheca Americana Primordia*, and founded an antiquarian and historical library at Peterborough. In 1715, he published a sermon, intitled *The Wickedness of the present Rebellion*, and afterward several other pieces. In 1717, he was engaged in a dispute with Dr William Nicholson, bishop of Carlisle, relating to some alterations in the bishop of Bangor's famous sermon; and disliked the proceedings of the convocation against that bishop. Upon the death of Dr Cumberland bishop of Peterborough, he was promoted to that see, to which he was consecrated in 1718. He sat in it more than ten years, and died in 1728. He was an excellent philologist, a good preacher, whether in English or Latin, and well versed in the histories and antiquities of our nation.

KENNET (Basil), a learned English writer, and brother to the preceding, was educated in Corpus Christi college, in the university of Oxford, where he became fellow. In 1706, he went over chaplain to the English factory at Leghorn; where he met with great opposition from the Papists, and was in danger from the inquisition. He died in the year 1714. He published *Lives of the Greek Poets*; the *Roman Antiquities*; a volume of *Sermons* preached at Leghorn; A translation into English of Puffendorf's *Treatise of the Law of Nature and Nations*. He was a man of most exemplary integrity, generosity, piety, and modesty.

KENNICOTT (Dr Benjamin), well known in the learned world for his elaborate edition of the Hebrew Bible and other valuable publications, was born at Totness in Devonshire in the year 1718. With the rank and character of his parents we are entirely unacquainted; but it is certain they were unable to satisfy that thirst for knowledge which they could not but discover in their son. Some opportunities of early improvement must, however, have been afforded him, or (which we sometimes see) the natural vigour of his mind must have superseded the necessity of them. For in the year 1743, he wrote A Poem on the Recovery of the Hon. Mrs Eliz. Courtenay from her late dangerous illness; and this probably recommended him to the notice of those gentlemen who afterwards sent him to Oxford and supported him there. In judging of this performance, they may be supposed to have considered not so much its intrinsic merit, as the circumstances under which it was produced. For though it might claim just praise as the fruit of youthful in-

dustry struggling with obscurity and indigence, as a poem it never rises above mediocrity, and generally sinks below it. But in whatever light these verses were considered, the publication of them was soon followed by such contributions as procured for the author the advantages of an academical education. In the year 1744 he entered at Wadham college; nor was it long before he distinguished himself in that particular branch of study in which he afterwards became so eminent. His two dissertations, *On the Tree of Life*, and *The Oblations of Cain and Abel*, came to a second edition so early as the year 1747, and procured him the singular honour of a bachelor's degree conferred on him *gratis* by the University a year before the statutable time. The dissertations were gratefully dedicated to those benefactors whose liberality had opened his way to the University, or whose kindness had made it a scene not only of manly labour, but of honourable friendship. With such merit, and such support, he was a successful candidate for a fellowship of Exeter college, and soon after his admission into that society, he distinguished himself by the publication of several occasional sermons. In the year 1753 he laid the foundation of that stupendous monument of learned industry, at which the wise and the good will gaze with admiration, when prejudice, and envy, and ingratitude, shall be dumb. This he did by publishing his first dissertation, *On the State of the Printed Hebrew Text*, in which he proposed to overthrow the then prevailing notion of its absolute integrity. The first blow, indeed, had been struck long before, by Cappellus, in his *Critica Sacra*, published after his death by his son, in 1650—a blow which Buxtorf, with all his abilities and dialectical skill, was unable to ward off. But Capellus having no opportunity of consulting MSS. though his arguments were supported by the authority of the Samaritan Pentateuch, of parallel passages, and of the ancient versions, could never absolutely prove his point. Indeed the general opinion was, that the Hebrew MSS. contained none, or at least very few and trifling variations from the printed text: and with respect to the Samaritan Pentateuch very different opinions were entertained. Those who held the Hebrew verity, of course condemned the Samaritan as corrupt in every place where it deviated from the Hebrew: and those who believed the Hebrew to be incorrect, did not think the Samaritan of sufficient authority to correct it. Besides, the Samaritan itself appeared to a very great advantage; for no Samaritan MSS. were then known, and the Pentateuch itself was condemned for those errors which ought rather to have been ascribed to the incorrectness of the editions. In this dissertation, therefore, Dr Kennicott, proved that there were many Hebrew MSS. extant, which, though they had hitherto been generally supposed to agree with each other, and with the Hebrew text, yet contained many and important various readings: and that from those various readings considerable authority was derived in support of the ancient versions. He announced the existence of six Samaritan MSS. in Oxford only, by which many errors in the printed Samaritan might be removed; and he attempted to prove, that even from the Samaritan, as it was already printed, many passages in the Hebrew might undoubtedly be corrected. This work, as it was reasonable to expect, was examined with great severity

Kennicott. verity both at home and abroad. In some foreign universities the belief of the Hebrew verity, on its being attacked by Capellus, had been insisted on as an article of faith—*Ista Capelli sententia adeo non approbata fuit fidei sociis, ut potius Helvetii theologi, et speciatim Genevenses, anno 1678, peculiari canone caverint, ne quis in ditione sua minister ecclesiæ recipiatur, nisi fateatur publice, textum Hebræum, ut hodie est in exemplaribus Masoreticis, quoad consonantes et vocales, divinum et authenticum esse,* (Wolfii Biblioth. Heb. tom. ii. 27). And at home this doctrine of the corrupt state of the Hebrew text was opposed by Comings and Bate, two Hutchinsonians, with as much violence as if the whole truth of the revelation were at stake.

The next three or four years of Dr Kennicott's life were principally spent in searching out and examining Hebrew MSS. though he found leisure not only to preach, but to publish several occasional sermons. About this time Dr Kennicott became one of the king's preachers at Whitehall; and in the year 1759 we find him vicar of Culham in Oxfordshire. In January 1760 he published his second dissertation on the state of the Hebrew Text; in which, after vindicating the authority and antiquity of the Samaritan Pentateuch, he disarmed the advocates for the Hebrew verity of one of their most specious arguments. They had observed that the Chaldee Paraphrase having been made from Hebrew MSS. near the time of Christ, its general coincidence with the present Hebrew Text must evince the agreement of this last with the MSS. from which the paraphrase was taken. Dr Kennicott demonstrated the fallacy of this reasoning, by showing that the Chaldee Paraphrase had been frequently corrupted, in order to reconcile it with the printed text; and thus the weapons of his antagonists were successfully turned upon themselves. He appealed also to the writings of the Jews themselves on the subject of the Hebrew Text, and gave a compendious history of it from the close of the Hebrew canon down to the invention of printing, together with a description of 103 Hebrew MSS. which he had discovered in England, and an account of many others preserved in various parts of Europe. A collation of the Hebrew MSS. was now loudly called for by the most learned and enlightened of the friends of biblical criticism; and in this same year (1760) Dr Kennicott emitted his proposals for collating all the Hebrew MSS. prior to the invention of printing, that could be found in Great Britain and Ireland, and for procuring at the same time as many collations of foreign MSS. of note, as the time and money he should receive would permit. His first subscribers were the learned and pious Archbishop Secker, and the delegates of the Oxford press, who with that liberality which has generally marked their character, gave him an annual subscription of 40 l. In the first year the money received was about 500 guineas, in the next it arose to 900, at which sum it continued stationary till the tenth year, when it amounted to 1000. During the progress of the work the industry of our author was rewarded by a canonry of Christ Church. He was also presented, though we know not exactly when, to the valuable living of Mynhenyote, in Cornwall, on the nomination of the Chapter of Exeter. In 1776 the first volume was published, and in 1780 the whole was completed. If now we consider that

above 600 MSS. were collated, and that the whole work occupied 20 years of Dr Kennicott's life, it must be owned that sacred criticism is more indebted to him than to any scholar of any age. Within two years of his death, he resigned his living in Cornwall, from conscientious motives, on account of his not having a prospect of ever again being able to visit his parish. Although many good and conscientious men may justly think, in this case, that his professional labours carried on elsewhere might properly have intitled him to retain this preferment, and may apply this reasoning in other cases; yet a conduct so signally disinterested deserves certainly to be admired and celebrated. Dr Kennicott died at Oxford, after a lingering illness, Sept. 18, 1783; and left a widow, who was sister to the late Edward Chamberlayne, Esq; of the treasury. At the time of his death he was employed in printing *Remarks on Select Passages in the Old Testament*; which were afterwards published, the volume having been completed from his papers.

KENO. See **KINO.**

KENRICK (William), an author of considerable abilities, was the son of a citizen of London, and brought up, it is said, to a mechanical employment. This, however, he seems early to have abandoned; and to have devoted his talents to the cultivation of letters, by which he supported himself during the rest of a life which might be said to have passed in a state of warfare, as he was seldom without an enemy to attack or to defend himself from. He was for some time student at Leyden, where he acquired the title of J. U. D. Not long after his return to England, he figured away as a poet in *Epistles Philosophical and Moral*, 1759, addressed to Lorenzo; an avowed defence of infidelity, written whilst under confinement for debt, and with a declaration that he was "much less ambitious of the character of a poet than of a philosopher." From this period he became a writer by profession; and the Proteus shapes under which he appeared, it would be a fruitless attempt to trace. He was for a considerable time a writer in *The Monthly Review*; but quarrelling with his principal, began a *New Review* of his own. When our great Lexicographer's edition of Shakespeare first appeared in 1765, it was followed in a fortnight by a pamphlet, intitled, "A Review of Dr Johnson's new Edition of Shakespeare, in which the ignorance or inattention of that editor is exposed, and the poet defended from the persecution of his commentators, 1765." This pamphlet was followed by an Examination of it, and that by a Defence in 1766; in which year he produced his pleasant comedy of *Falstaff's Wedding*, at first intended to have been given to the public as an original play of Shakespeare retrieved from obscurity, and is, it must be acknowledged, a happy imitation of our great dramatic bard. With the celebrated English Roscius Dr Kenrick was at one time on terms of the strictest intimacy: but took occasion to quarrel with him in print, in a mode too unmanly to be mentioned. In politics also he made himself not a little conspicuous; particularly in the dispute between his friends Wilkes and Horne. He was the original editor of *The Morning Chronicle*; whence being ousted for neglect, he set up a new one in opposition. He translated in a very able manner the *Emilius* and the *Eloisa* of

Keno,
Kenrick.

Kensington,
Kent.

Rousseau; the Elements of the History of England by Milot (to injure, if possible, a translation of the same work by Mrs Brooke); and produced several dramatic performances, together with an infinite variety of publications both original and translated. To him also the public are indebted for the collection (imperfect as it is) of The Poetical Works of Robert Lloyd, M. A. 1774, 2 vols 8vo. Dr Kenrick died June 9. 1777.

KENSINGTON, a village of Middlesex, on the western road from London, near 2 miles from Hyde-Park-Corner. It is extremely populous; and besides the palace, now neglected, contains many genteel houses, and several boarding-schools. The palace, which was the seat of the Lord Chancellor Finch afterwards Earl of Nottingham, was purchased by King William; who greatly improved it, and caused a royal road to be made to it, through St James's and Hyde Parks, with lamp-posts erected at equal distances on each side. Queen Mary enlarged the gardens. Her sister Queen Ann improved what Mary had begun; and was so pleased with the place, that she frequently supped during the summer in the green-house, which is a very beautiful one: but Queen Caroline completed the design by extending the gardens from the great road in Kensington to Acton; by bringing what is called the Serpentine-River into them; and by taking in some acres out of Hyde-Park, on which she caused a mount to be erected, with a chair on it that could be easily turned round for shelter from the wind, since decayed. This mount is planted about with evergreens, and commands a fine view over the noble gardens, and the country south and west. They were originally designed by Kent, and have lately been very much improved by Brown; and though they contain no striking beauties, which their flat situation will not admit, yet they have many pleasing parts, and afford much delight to the inhabitants of London, particularly to those whose professions will not allow of frequent excursions to more distant places. These gardens, which are three miles and a half in compass, are kept in great order. The palace indeed has none of that grandeur which ought to appear in the residence of a British monarch; but the royal apartments are noble, and some of the pictures good. It was at this place King William, Prince George of Denmark, Queen Ann, and King George II. died. The old church was pulled down in 1696, and a much better one built in its room. Part of this village, from the palace-gate to the Bell, is in the parish of St Margaret's, Westminster.

KENT, one of the counties of England, situated at the south-east corner of the island, and from thence enjoying many advantages. The capacious æstuary of the Thames washes its northern parts, as the sea does the south-east; whence some with no great impropriety have styled it a *peninsula*. In point of extent, this is the fifth shire in South Britain, little less in its dimensions than the province of Holland; larger in size than the duchy of Juliers in Germany; and almost exactly equal to that of Modena in Italy. Kent is, with great appearance of truth, supposed to be so styled from the ancient British word *kant*, signifying a corner, or, when applied to a country, an *head land*. It is certain, that the Romans bestowed the name of

Cantium on the province, and on its most conspicuous promontory the north Foreland; and from the district they inhabited, the people were called *Cantii*; which has prevailed even to our times, when *Kent*, and the *men of Kent*, are the common appellatives. It is however probable, that these *Cantii* were not the original inhabitants, but a latter colony from the opposite continent, established here, like the Belgæ, not long before the Roman invasion. At the time of Cæsar's coming, this spacious and fertile region was divided into four principalities, or, as they are, according to the manners of those days, commonly called, *kingdoms*. It was his observation of these people, that they were particularly distinguished by their civility and politeness; a character which their descendants have preserved. When that wise people became masters of the southern parts of the island, this province received the most conspicuous marks of their attention, as appears from the stations which they so prudently established, while their government flourished in its full vigour. The care they took of the ports on the sea-coast as soon as it came to be in danger, and the several fortresses which they erected for the defence of their subjects against the sudden attempts of barbarous invaders, are evidences of the same kind. These forts, so prudently disposed, and so well secured, were under the direction of a particular great officer, called *Littoris Saxonici Comes*, i. e. the count of the Saxon shore; which office seems to have been preserved by the British monarchs who governed here, after the Romans quitted the isle. The Saxon kings of Kent discharged this trust in their legal capacity, from the middle of the fifth to the beginning of the ninth century. Under the northern princes, this post was again revived, though with a change of title, in the *Lord Warden of the cinque Ports*. Indeed, under all governments, the people of Kent have been especially considered; as appears from their claim to the post of honour in our land-armies, and the privileges granted to their havens, in consideration of their undertaking the defence of our channel.

As to the climate of this county, it varies according to the situation of places. In the low flat lands, and especially in the marshes, the air is heavy, moist, and unhealthy; and yet not to such a degree as it has been sometimes represented; for, with a little care and caution, strangers, as well as natives, quickly reconcile their constitutions to the temperature even of these parts, and live in them without much inconveniency or apparent danger. But, in reference to the rest of the country, the air is as thin, pure, and wholesome, as in any part of Britain. There is no region more happily or more beautifully diversified in regard to soil, so that every kind thereof is, somewhere or other, to be met with in its bounds; and in no shire are any of these soils more fertile than they are in this. The Weald yields variety of fine timber, particularly of chesnut; the middle part has very rich arable land, annually bearing every species of grain in immense plenty, and these excellent in their several sorts. There are also many beautiful orchards, which produce a variety of fine fruits, and more especially apples and cherries, which were introduced here from Flanders by one Richard Harris, who was the king's fruiterer, in the reign of Henry VIII. The flat country is renowned

Kent.

Campbell's
Political
Survey.

^{Kent.} renowned for its meadows; and Rumney-marsh has hardly its equal. We may from this concise description very easily collect, that the natural products of Kent are numerous, and of great value. In the bowels of the earth they find, in several places, a rough hard serviceable stone for paving, which turns to some advantage; but not so much as their exquisite fullers-earth, rich marl, and fine chalk, which are there in abundance. If we except iron-ore, indeed, they have no mines; but there are prodigious heaps of copperas-stones thrown on the coast. The isle of Shepey, and all the adjacent shore as far as Reculver, is justly famous for its wheat. Thanet is in no less credit for its barley, or rather was so; for now it produces, through the painful industry and skilful husbandry of its inhabitants, copious crops of good wheat as well as barley. Horses, black cattle, and sheep, they have in great numbers, and remarkable in point of size; and hop-grounds in all parts of the county, which turn to very considerable account. To which we may add, weld, or as some call it *dyers-weed*, which is a very profitable commodity, and of which there grows much in the neighbourhood of Canterbury; also madder, which is, or has been, occasionally cultivated. The rivers and sea-coasts abound with fish of different kinds. The excellency of its oysters on the eastern shore is celebrated by the Roman poets. Those of Faversham and Milton are not only in great esteem at the London market, but are likewise sent in great quantities to Holland.

The many rich commodities produced in this county, is the reason why most of our writers have represented it as in a manner void of manufactures; which, however, as appears upon a strict and impartial examination, is very far from being the case. Of iron-works there were anciently many; and there are still some, where kettles, bombs, bullets, cannon, and such like, are made. At Deptford Sir Nicholas Crispe had in his life-time a very famous copperas work; as, indeed, there that ingenious gentleman, one of the greatest improvers and one of the most public-spirited persons this nation ever bred, introduced several other inventions. Copperas was also formerly made, together with brimstone, in the isle of Shepey*. But the original and for many ages the principal manufacture of this county was broad cloath of different colours, established chiefly at Cranbrook by King Edward III. who brought over Flemings to improve and perfect (the trade being introduced long before) his subjects in that important art. At this and other places it flourished so much, that even at the close of Queen Elizabeth's reign, and according to some accounts much later, the best for home consumption, and the largest quantities for exportation, were wrought here; many fulling mills being erected upon almost every river, and the greatest plenty of excellent fullers-earth affording them singular assistance; insomuch that it is still a tradition, that the yeomanry of this county, for which it has been ever famous, were mostly the descendants of rich clothiers, who laid out the money acquired by their industry in the purchase of lands, which they transmitted, with their free and independent spirit, to their posterity. The duke of Alva's persecution of the Protestants in the Low Countries drove a multitude of Walloons over hither, who brought with

* *Philosopb.
Transact.
n° xlii.
p. 1056—
1059.*

them that ingenuity and application for which they had been always distinguished. These diligent and active people settled a manufactory of flannel or baize at Sandwich. By them the silk-looms were set up at Canterbury, where they still subsist; and they also introduced the making of thread at Maidstone, where it yet remains, and merits more notice and encouragement than hitherto it has met with.

Upon the river Dart, at the confluence of which with the Thames stands the town of Dartford, was set up, in the reign of Queen Elizabeth, the first mill for making white paper by Mr John Spilman, a German, upon whom, long after, King James conferred the honour of knighthood; but King Charles more sensibly bestowed upon this Sir John Spilman a patent and a pension of 200 l. a year, as a reward of his invention, and for the support of the manufacture. About the year 1590, Godfrey Box, a German, erected upon the same river the first slitting-mill which was ever used for making iron-wire; and also the first battery-mill for making copper-plates. Other new inventions, requiring the assistance of water, have been set up on other streams; and a great variety of machines of this sort still subsist in different parts of this county. But these things are now so common, that it would be both tedious and useless to insist upon them. Amongst these, we may reckon the making gunpowder in several places. That manufacture, however, which is now the glory of this county, and indeed of Britain, is ship-building; more especially at the royal yards; as at Woolwich, which was settled by Henry VIII. and some considerable ships built there. At present, there is not only a most complete establishment for the building and equipping men of war, a rope walk, foundry, and magazines; but also many private docks, in which prodigious business is carried on, and multitudes of people are employed.

KENTISH-TOWN, a village of Middlesex, three miles north of London, near Hampstead, much improved of late by several handsome houses belonging to the citizens of London, &c. A new chapel has lately been erected here.

KENTUCKY, a province of North America, belonging at present to the state of Virginia, but proposed soon to be admitted into the union as an independent state. It is situated between 36° 30' and 39° 30' North Latitude, and 8° and 15° West Longitude; being 250 miles in length, and 200 in breadth. It is bounded north-west by the river Ohio; west, by Cumberland river; south, by North Carolina; east, by Sandy-river, and a line drawn due south from its source till it strikes the northern boundary of North Carolina. Kentucky was originally divided into two counties, Lincoln and Jefferson. It has since been subdivided into seven, viz. Jefferson, Fayette, Bourbon, Mercer, Nelson, Maddison, Lincoln; and Lexington is the chief town.

The river Ohio washes the north-western side of Kentucky, in its whole extent. Its principal branches, which water this fertile tract of country, are Sandy, Licking, Kentucky, Salt, Green, and Cumberland rivers. These again branch into various directions, into rivulets of different magnitudes, fertilizing the country in all its parts.—There are five noted salt springs.

<sup>Kent
||
Kentucky.</sup>

Kentucky. Springs or licks in this country, viz. the higher and lower Blue Springs on Licking river, from some of which, it is said, issue streams of brinish water; the Big Bone lick, Drennon's licks, and Bullet's lick at Saltsburg. The last of these licks, though in low order, has supplied this country and Cumberland with salt at 20 shillings the bushel, Virginia currency; and some is exported to the Illinois country. The method of procuring water from these licks is by sinking wells from 30 to 40 feet deep. The water drawn from these wells is more strongly impregnated with salt than the water from the sea.

This whole country, as far as has yet been discovered, lies upon a bed of lime-stone, which in general is about six feet below the surface, except in the valleys where the soil is much thinner. A tract of about 20 miles wide along the banks of the Ohio is hilly broken land, interspersed with many fertile spots. The rest of the country is agreeably uneven, gently ascending and descending at no great distances. This country in general is well timbered; and such is the variety and beauty of the flowering shrubs and plants which grow spontaneously in it, that in the proper season the wilderness appears in blossom. The accounts of the fertility of the soil in this country have in some instances exceeded belief, and probably have been exaggerated. That some parts of Kentucky, particularly the high grounds, are remarkably good, all accounts agree. The lands of the first rate are too rich for wheat, and will produce 50 and 60, and in some instances it is affirmed 100 bushels of good corn an acre. In common the land will produce 30 bushels of wheat or rye an acre. Barley, oats, cotton, flax, hemp, and vegetables of all kinds common in this climate, yield abundantly. The old Virginia planters say, that if the climate does not prove too moist, few soils known will yield more and better tobacco.—The climate is healthy and delightful, some few places in the neighbourhood of ponds and low grounds excepted. The inhabitants do not experience the extremes of heat and cold. Snow seldom falls deep or lies long. The winter, which begins about Christmas, is never longer than three months, and is commonly but two, and is so mild as that cattle can subsist without fodder.

It is impossible to ascertain with any degree of accuracy the present number of inhabitants, owing to the numerous accessions which are made almost every month. In 1783, in the county of Lincoln only, there were on the militia rolls 3570 men, chiefly emigrants from the lower parts of Virginia. In 1784 the number of inhabitants were reckoned at upwards of 30,000. From the accounts of their astonishing increase since, we may now safely estimate them at 1,000,000. It is asserted that at least 20,000 migrated here in the year 1787. These people, collected from different states, of different manners, customs, religions, and political sentiments, have not been long enough together to form a uniform and distinguishing character. Among the settlers there are many gentlemen of abilities, and many genteel families from several of the states, who give dignity and respectability to the settlement. They are in general more orderly perhaps than any people who have settled a new country.

As to religion, the Baptists are the most numerous sect in Kentucky. In 1789 they had 16 churches

Kentucky. established, besides several congregations where churches were not constituted. These were supplied with upwards of 30 ministers or teachers. There are several large congregations of Presbyterians, and some few of other denominations.

The legislature of Virginia have made provision for a college in Kentucky, and have endowed it with very considerable landed funds. Schools are established in the several towns, and in general regularly and handsomely supported. They have a printing office, and publish a weekly gazette. They have erected a paper-mill, an oil mill, fulling mills, saw mills, and a great number of valuable grist mills. Their salt works are more than sufficient to supply all the inhabitants at a low price. They make considerable quantities of sugar from the sugar trees. Labourers, particularly tradesmen, are exceedingly wanted here.

The first white man who discovered this province was one James M'Bride, in the year 1754. From this period it remained unexplored till about the year 1767, when one John Finley and some others, trading with the Indians, fortunately travelled over the fertile region now called Kentucky, then but known to the Indians by the name of the Dark and Bloody Grounds, and sometimes the Middle Ground. This country greatly engaged Mr Finley's attention, and he communicated his discovery to Colonel Daniel Boon, and a few more, who conceiving it to be an interesting object, agreed in the year 1769 to undertake a journey in order to explore it. After a long fatiguing march over a mountainous wilderness, in a westward direction, they at length arrived upon its borders; and from the top of an eminence, with joy and wonder descried the beautiful landscape of Kentucky. Here they encamped, and some went to hunt provisions, which were readily procured, there being plenty of game, while Colonel Boon and John Finley made a tour through the country, which they found far exceeding their expectations; and returning to camp, informed their companions of their discoveries. But in spite of this promising beginning, this company meeting with nothing but hardships and adversity, grew exceedingly disheartened, and was plundered, dispersed, and killed by the Indians, except Colonel Boon, who continued an inhabitant of the wilderness until the year 1771, when he returned home.

Colonel Henderson of North Carolina being informed of this country by Colonel Boon, he and some other gentlemen held a treaty with the Cherokee Indians at Wataga in March 1775, and then purchased from them the lands lying on the south side of Kentucky river for goods at valuable rates, to the amount of 6000 l. specie.

Soon after this purchase, the state of Virginia took the alarm, agreed to pay the money Colonel Donaldson had contracted for, and then disputed Colonel Henderson's right of purchase, as a private gentleman of another state in behalf of himself. However, for his eminent services to this country, and for having been instrumental in making so valuable an acquisition to Virginia, that state was pleased to reward him with a tract of land at the mouth of Green river, to the amount of 200,000 acres; and the state of North Carolina gave him the like quantity in Powell's Valley. This region was formerly claimed by various tribes of Indians;

Kepler. Indians; whose title, if they had any, originated in such a manner as to render it doubtful which ought to possess it. Hence this fertile spot became an object of contention, a theatre of war, from which it was properly denominated the Bloody Grounds. Their contentions not being likely to decide the right to any particular tribe, as soon as Mr Henderfon and his friends proposed to purchase, the Indians agreed to sell; and notwithstanding the valuable consideration they received, have continued ever since troublesome neighbours to the new settlers.

The progress in improvements and cultivation which has been made in this country, almost exceeds belief. Eleven years ago Kentucky lay in forest, almost uninhabited but by wild beasts. Now, notwithstanding the united opposition of all the western Indians, she exhibits an extensive settlement, divided into seven large and populous counties, in which are a number of flourishing little towns, containing more inhabitants than are in Georgia, Delaware, or Rhode-Island states; and nearly or quite as many as in New Hampshire.

KEPLER (John), one of the greatest astronomers of his age, was born at Wiet, in the country of Wirtemberg, in 1571. In the year 1595, he wrote an excellent book, which was printed at Tübingen the year following, under the title of *Prodromus dissertationum de proportionibus orbium celestium, deque causis colorum numeri, magnitudinis, motuumque periodicorum generum et propriis*, &c. Tycho Brahe having settled in Bohemia, and obtained from the emperor all sorts of conveniences for the perfecting of astronomy, was so passionately desirous of having Kepler with him, and wrote so many letters to him on that subject, that he prevailed upon him to leave the university of Gratz, and remove into Bohemia with his family and library in the year 1600. Kepler in his journey was seized so violently with the quartan ague, that he could not do Tycho Brahe all the services of which he was before capable. He was even a little dissatisfied with the reservedness which Tycho Brahe showed towards him; for the latter did not communicate to him all he knew; and as he died in 1601, he did not give time to Kepler to be very useful to him, or to receive any considerable advantage under him. From that time Kepler enjoyed the title of *Mathematician to the emperor* all his life; and gained more and more reputation by his works. The emperor Rodolphus ordered him to finish the tables of Tycho Brahe, which were to be called the *Rodolphine Tables*. Kepler applied himself to it vigorously: but unhappy are those learned men who depend upon the good-humour of the intendants of the finances. The treasurers were so ill-affected toward our author, that he could not publish these tables till 1627. He died at Ratisbon, where he was soliciting the payment of the arrears of his pension in 1630.

The principal works of this great astronomer are, 1. *Prodromus dissertationum* above mentioned, to which he has also given the title of *Mysterium Cosmographicum*; which he esteemed more than any other of his works, and was for some time so charmed with it, that he said he would not give up the honour of having invented what was contained in that book for the electorate of Saxony. 2. *Harmonia mundi*, with a defence of that

treatise. 3. *De cometis, libri tres*. 4. *Epitome astronomiæ Copernicæ*. 5. *Astronomia nova*. 6. *Cibilis logarithmorum*, &c. 7. *Nova stereometria solidorum vinariorum*, &c. 8. *Dioptrice*. 9. *De vero natali anno Christi*. 10. *Ad Vitellionem Paralipomena, quibus Astronomia pars optica traditur*, &c. 11. *Somnium Lunarisve Astronomia*; in which he began to draw up that system of comparative astronomy which was afterwards pursued by Kircher, Huygens, and Gregory. His death happened while the work was printing; upon which James Bartschius his son-in-law undertook the care of the impression, but was also interrupted by death: and Lewis Kepler his son, who was then a physician at Königsberg in Prussia, was so much startled at these disasters, that it was with the utmost difficulty he could be prevailed upon to attempt to finish it, lest it should prove fatal to him: he completed the task, however, without receiving any personal injury.

KERATOPHYTUM, in natural history, a species of **GORGONIA**.—The keratophyta are called the *frutices coralloides*, or sea-shrubs; and generally known among naturalists by the different appellations of *liophyta*, *lithoxyla*, and *keratophyta*; epithets tending to convey an idea of their composition, which at first view seems to consist partly of a woody or horny, partly of a stony or calcareous substance, variously disposed with respect to each other. Their general form approaches to that of shrubs, having a root-like base, by which they adhere to some solid support in the ocean; and a stem or trunk, and branches differently disposed; some rising up in one or more different twigs, subdivided into smaller and separate ramifications; while others have their smaller branches connected in such a manner, as to form a curious net-like structure: from this diversity of figure they borrow the names of *sea fans*, *sea-feathers*, &c. The seeming fibres of the base are, in reality, small tubes, of which the whole shrub consists: these tubes run up longitudinally into the trunk, and are also circularly disposed about the centre of the trunk: the woody part, as naturalists have called it, thus formed, affords when burnt a strong smell like burning horn; whence some have called it *the horny part*. Upon this part is superinduced a kind of stony or calcareous coat, which covers both trunk and branches to their extremities. In this coat may be discovered regular orders or pores of cells; and viewed by the microscope, it always appears to be an organical body consisting of a regular congeries, like the cells in which animals have been formed or existed. Some of this kind of bodies have lost their calcareous covering by the violence of the waves and other accidents. In some specimens of an advanced growth, the calcareous tubes just mentioned send out little cells of animals of the polype kind, with proper openings to them all: these cells are diffused along the branches in some regular order, much in the same manner as they are in the corallines. From the cells the animals have been discovered extending themselves, as well to procure food, as materials for the increase of this surprising structure; and therefore there is no reason to doubt that they are animal productions.

A small sprig of the keratophyton flabelliforme, or warded sea-fan, is represented in Plate CCL. The outside is covered with a crust full of little lumps.

Keratophy-
tum.

Kerckring
||
Kermes.

lumps like warts; which, when dissolved in vinegar, discover the contracted bodies of polypes, like claws. C and C₁ are two views of one of the warts magnified; C₂, is the appearance of the polype when the cretaceous matter is dissolved; C₃, represents the particles that compose the incrustation, magnified.—D, represents a sea-willow, or keratophyton dichotomum. On both edges of the flat branches are regular rows of little rising cells in the calcareous part, with small holes for an entrance to each. See CORALLINES.

KERCKRING (Theodore), a famous physician of the 17th century, was born at Amsterdam, and acquired a great reputation by his discoveries and his works. He found out the secret of softening amber without depriving it of its transparency; and made use of it in covering the bodies of curious insects in order to preserve them. He was a member of the Royal Society of London, and died in 1693 at Hamburg, where he had spent the greatest part of his life, with the title of *resident of the grand duke of Tuscany*. His principal works are, 1. *Spicilegium anatomicum*. 2. *Anthropogenia ichnographia*. There is also attributed to him an anatomical work, printed in 1671 in folio.

KERI CETIB, are various readings in the Hebrew Bible: *keri*, signifies that which is read; and *cetib*, that which is written. For where any such various readings occur, the wrong reading is written in the text, and that is called the *cetib*; and the true reading is written in the margin, with *p* under it, and called the *keri*. It is generally said by the Jewish writers, that these corrections were introduced by Ezra; but it is most probable, that they had their original from the mistakes of the transcribers after the time of Ezra, and the observations and corrections of the Masorites. Those Keri cetibs, which are in the sacred books written by Ezra himself, or which were taken into the canon after his time, could not have been noticed by Ezra himself; and this affords a presumption, that the others are of late date. These words amount to about 1000; and Dr Kennicott, in his *Dissertatio Generalis*, remarks, that all of them, excepting 14, have been found in the text of manuscripts.

KERMAN, the capital city of a province of that name in Persia, seated in E. Long. 56. 30. N. Lat. 30. 0. The province lies in the south part of Persia, on the Persian gulph. The sheep of this country, towards the latter end of the spring, shed their wool, and become as naked as suckling pigs. The principal revenue of the province consists in these fleeces.

KERMES, in zoology, the name of an insect produced in the excrescences of a species of the oak. See COCCUS.

KERMES Mineral, so called from its colour, which resembles that of vegetable kermes, is one of the most important antimonial preparations, both with regard to its chemical phenomena and to its medicinal uses.

The use of kermes-mineral was not established in medicine before the beginning of this century. Some chemists, indeed, amongst others Glauber and Lemeri, had before that time mentioned in their works several preparations of antimony which approach more or less to kermes; but these preparations being little known, were confounded with many others which are entirely

N^o 172.

neglected, although much praised by their authors.—Kermes. The fame of kermes was occasioned by friar Simon, apothecary to the Chartreux friars. He received this preparation from a surgeon called *La Ligerie*, who had procured it from a German apothecary who had been a scholar of the famous Glauber. Friar Simon, from the commendations given to this new remedy by *La Ligerie*, administered it to a Chartreux friar, who was dangerously ill of a violent peripneumony, by which the friar was suddenly, and as it had been miraculously, cured. From that time the friar-apothecary published the virtue of his remedy. Several other remarkable cures were performed by means of kermes. The public believed in its medicinal qualities, and called it *powder of Chartreux*; because it was prepared only in the apothecary's shop belonging to these monks. The reputation of kermes extended itself more and more; till at length the duke of Orleans, then regent of France, procured the publication of the process by *La Ligerie*.

This process consists in boiling, during two hours, pulverised crude antimony in the fourth part of its weight of the liquor of nitre fixed by coals, and twice its weight of pure water: at the end of this time the liquor is to be decanted and filtrated, while boiling, through brown paper. It continues clear while it is boiling hot; but when it cools, it becomes turbid, acquires a red brick colour, and again becomes clear by the deposition of a red sediment, which is the kermes. The boiling may be thrice repeated, and each time the same quantity of water is to be added to the antimony, and a fourth part less of the liquor of fixed nitre. The several sediments from these three boilings are to be added together, washed with clean water till the water acquires no taste; and the kermes is then to be dried. *La Ligerie* directs, that aquavita shall be once or twice poured upon it and burnt, and the kermes dried again.

We now proceed to explain the nature of kermes, and the phenomena of its preparation.—Crude antimony is composed of regulus of antimony and common sulphur, united naturally with each other, as in almost all metallic minerals. The fixed alkali with which the crude antimony is boiled, although it is diluted with much water, acts upon the sulphur of the antimony, and forms with it liver of sulphur; and as this compound is a solvent of all metallic matters, it dissolves a certain quantity of the regulus of antimony. In this operation then a combination is formed of fixed alkali, of sulphur, and of regulus of antimony. Of these three substances the fixed alkali only is soluble in water, and is the intermediate substance by which the sulphur and regulus are suspended in the water. But we are to observe, that the alkali becomes impregnated by this operation, and by boiling, with a larger quantity of regulus, and especially of sulphur, than can be suspended in cold water; hence the decoction of kermes, which is clear, limpid, and colourless while boiling hot, becomes turbid and deposits a sediment while it cools. This compound, therefore, like certain salts, may be kept dissolved in larger quantity by hot than by cold water, and much of it is therefore deposited by cooling.

Further, while the kermes is precipitating, the whole

Kermes. whole antimoniated liver of sulphur, which is dissolved by the boiling liquor, may be divided into two parts; one of which, that is the kermes, being overcharged with the regulus, and particularly with the sulphur, contains but a little alkali, which it draws along with it during its deposition. The other part, as it contains much more alkali, remains dissolved even in the cold liquor, by means of this larger quantity of alkali. All these propositions are to be explained and demonstrated by the following observations.

First, when the decoction of kermes is cold, and has formed all its sediment, if, without adding any thing to it, it be heated till it boil, it again entirely redissolves the kermes; the sediment disappears; the liquor becomes clear, and by cold is again rendered turbid and deposits sediment as before. Thus the kermes may be made to precipitate and to redissolve as often as we please.

Secondly, by digesting kermes in aqua regia, which dissolves its alkali and regulus, the sulphur is separated pure. The acids of aqua regia form a nitre and a febrifugal salt of Sylvius with the alkali of the kermes; and if a certain quantity of kermes be melted with black flux after having destroyed its sulphur by roasting, a true regulus of antimony may be obtained from it.

These experiments, which were made by Mr Geoffroy, and the detail of which is found in memoirs given to the Academy in the years 1734 and 1735, upon the analysis of kermes, show evidently the presence of sulphur, of fixed alkali, and of regulus of antimony, in this compound. From Mr Geoffroy's experiments we find, that 72 grains of kermes contain about 16 or 17 grains of regulus, 13 or 14 grains of alkaline salt, and 40 or 41 grains of common sulphur.

Thirdly, by repeating the boiling of the liquor upon the antimony, more and more kermes will be formed each time by cooling, as at first; and this experiment may be repeated a great many times. Mr Geoffroy says, that he repeated it 78 times without any other addition than that of pure water to supply that which was lost by evaporation; and that each time a considerable quantity of kermes was formed by cooling. This experiment proves, that the alkali transforms the antimony into kermes by overcharging itself with regulus and sulphur, and at each precipitation the kermes does not retain and take with it but a very small quantity of alkali.

Fourthly, if any acid be poured upon the liquor in which the kermes has been formed, and from which it has been entirely separated by cooling, Mr Beaumè has observed, that this liquor is again rendered turbid, and that a second sediment is formed of a yellow reddish colour, which is nothing else than golden sulphur of antimony; that is, regulus of antimony and sulphur mixed together, but in very different proportions, and with very different strengths of union, from those in which they are found in the crude antimony.

After this precipitation, in the liquor a neutral salt is left, which is formed by the contained alkali and the precipitating acid. From this experiment we find, that in the liquor from which the kermes has been deposited, a considerable quantity of antimoniated liver of sulphur remains, which differs from kermes by

containing a much larger proportion of alkali; so that it can keep dissolved the regulus and sulphur with which it is united, even when the liquor is cold.

In the process for several antimonial preparations, a kermes, or compounds like it, are formed. This always happens when crude antimony is treated by fusion with a quantity of alkaline salt, so that an antimoniated liver of sulphur results from it, overcharged with regulus and sulphur; that is, containing more of these two substances than it can keep dissolved in cold water. If any of these combinations be boiled in water, a matter analogous to kermes is always deposited by cooling. This happens, for instance, to the scoria of the regulus of antimony, and in an operation described by Mr Geoffroy to abridge the process for making kermes by fusion.

To make kermes by fusion, Mr Geoffroy fuses two parts of antimony with one part of alkaline salt; he powders this matter while yet hot, and keeps it during two hours in boiling water; he then filtrates it, and receives the liquor into more boiling water, from which, when it cools, about six gros of kermes is deposited, when an ounce of antimony has been used. This method of making kermes is much more expeditious, but less perfect; for, as the author confesses, the kermes produced is not so fine and soft as that made in the ordinary method.

Mr Lemer the elder mentions also, in his Treatise concerning Antimony, an operation from which his son pretends that kermes may be obtained. This operation consists in digesting, and afterwards boiling, powdered crude antimony in a very pure liquor of fixed nitre. This liquor, if it be in sufficient quantity, is capable of dissolving quickly and entirely powdered crude antimony; and we cannot doubt but that, by cooling, a considerable quantity of a substance very analogous to kermes will be produced. Nevertheless, none of these short methods of making kermes is directed by dispensatories, or by the best books for describing the preparations of chemical remedies.

Kermes is used in medicine only; and from it singularly excellent effects may be produced, when administered by able physicians. In kermes are united the exciting and evacuant virtues of the emetic preparations of antimony, with the tonic, dividing, aperitive, and resolving properties of the liver of sulphur; that is to say, that it is capable of answering two principal indications in the treatment of many acute and chronic diseases. Properly managed, it may become an emetic, purgative, a diuretic, a sudorific, or an expectorant, as is required, and it is always attenuating and resolving. When seven or eight grains are taken at once, it chiefly acts upon the primæ viæ, generally as an emetic and as a purgative. A dose of three or four grains is seldom emetic, and more frequently purgative. When taken in these quantities as an evacuant, a little of it passes also into the viæ secundæ & tertîæ. When it is administered in smaller doses, it passes almost entirely into the lacteal, blood, and lymphatic vessels. In these it occasions such spasms and oscillations as it does in the primæ viæ; so that it increases all secretions and excretions, but particularly those of urine, sweat, and expectoration, according to the dose, to the nature of the disease, and to the disposition of the patient. It produces very good effects in those diseases

Kermes.

Kern,
Kerry.

diseases of the breast which proceed from fullness and obstruction.

Kermes may be administered in linctuses, in oily or in cordial potions, in any vehicle; or incorporated in a bolus, with other suitable remedies. One precaution, hitherto little observed, is very necessary; that is, not to join it with acid matters, if it is intended to act as kermes. Anti-acid and absorbent substances ought to be joined with it, if the patient has an acid in the primæ viæ, or an acedent disposition; for as these acids saturate the alkali by which the kermes is rendered an antimoniated liver of sulphur, and by which alone it differs from golden sulphur of antimony, they accordingly render the kermes entirely similar to the golden sulphur of antimony, the properties of which are very different from those of kermes.

KERN, or KERNE, a term in the ancient Irish militia, signifying a *foot-soldier*.—Camden tells us, the armies of Ireland consisted of cavalry, called *galloglas-fes*; and infantry, lightly armed, called *kernes*.—The kernes bore swords and darts; to the last were fitted cords, by which they could recover them after they had been launched out.

KERNES, in our laws, signify idle persons or vagabonds.

KERRY, a county of Ireland, in the province of Munster, anciently called *Corrigia*, or “the rocky country,” from *Cerrig* or *Carric*, “a rock.” It is bounded by the Shannon which divides it from Clare on the north, by Limerick and Cork on the east, by another part of Cork on the south, and by the Atlantic Ocean on the west. The best town in it is Dingle, situated in a bay of the same name. It comprehends a great part of the territory formerly called *Desmond*, and consists of very different kinds of soil. The south parts are plain and fertile, but the north full of high mountains, which, though remarkably wild, produce a great number of natural curiosities. It contains 636,905 Irish plantation acres, 84 parishes, 8 baronies, 3 boroughs, returns 8 members to parliament, and gives title of earl to the family of Fitzmaurice. It is about 57 miles long, 45 broad, and lies within N. Lat. 51. 30. and 52. 24.; the Longitude at the mouth of Kenmare river being 10° 35' west, or 42' 20" difference of time with London. It is the fourth county as to extent in Ireland, and the second in this province; but in respect to inhabitants and culture doth not equal many smaller counties. In it there are two episcopal sees, which have been annexed to the bishopric of Limerick since the year 1660, viz. Ardfert and Aghadoe. The see of Ardfert was anciently called the diocese of *Kerry*, and its bishops were named bishops of *Kerry*. Few mountains in Ireland can vie with those in this county for height; during the greater part of the year their sides are obscured by fogs, and it must be a very serene day when their tops appear. Iron ore is to be had in great plenty in most of the southern baronies. The principal rivers are the Blackwater, Feal, Gale and Brick, Cashin, Mang, Lea, Fleck, Laune, Carrin, Fartin, Inry, and Roughy, and the principal lake is Killarney. There are some good medicinal waters discovered in this county; particularly Killarney water, Iveragh, Spa, Fellofswell, Dingle, Castlemain, and Tralee-Spas, as also a saline spring at Maherybeg. Some rare and useful plants

grow in Kerry, of which Dr Smith gives a particular account in his history of that county.

KERSEY, a kind of coarse woollen cloth, made chiefly in Kent and Devonshire.

KESITAH. This word is to be met with in Genesis and in Job, and is translated in the Septuagint and Vulgat “sheep or lambs:” But the Rabbins and modern interpreters are generally of opinion, that kesitah signifies rather a piece of money. Bochart and Eububinus are of opinion the Septuagint meant *mina*, and not lambs; in Greek *hecatonmnon*, *εκατονμνων*, instead of *εκατον αρων*. Now a mina was worth 60 Hebrew shekels, and consequently 6l. 16s. 10½d. Sterling. M. de Pelletier of Rouen is of opinion, that kesitah was a Persian coin, stamped on one side with an archer (*Kesitah* or *Keseth* in Hebrew signifying “a bow”) and on the other with a lamb; that this was a gold coin known in the east by the name of a *daric*, and was in value about 12 livres and 10d. French money. Several learned men, without mentioning the value of the kesitah, say it was a silver coin, the impression whereof was a sheep, for which reason the Septuagint and Vulgate translate it by this name. Calmet is of opinion, that kesitah was a purse of gold or silver. In the east they reckon at present by purses. The word *kista* in Chaldee signifies “a measure, a vessel.” And Eustathius says, that *kista* is a Persian measure. Jonathan and the Targum of Jerusalem translate *kesitah* “a pearl.” (Gen. xxxiii. 19.; Job, xlii. 11). Or 9l. English, supposing, as Dr Prideaux does, that a shekel is worth 3s. A daric is a piece of gold, worth, as Dr Prideaux says, 25s. English.

KESSEL, a town of Upper Guelderland, in the Netherlands, with a handsome castle. It is the chief town in the territory of the same name, and seated on the river Meuse, between Ruremond and Venlo, it being about five miles from each. It was ceded to the king of Prussia by the treaty of Utrecht. E. Long. 6. 13. N. Lat. 41. 22.

KESSEL (John Van), an eminent painter, was born at Antwerp in 1626, and became exceedingly famous for painting those particular objects which he delighted to represent; and not only excelled in fruits and flowers, but was likewise eminent for painting portraits. In this manner he resembled Velvet Brueghel, and very near equalled him in his birds, plants, and flowers. The prodigious high prices for which he sold his works, occasioned the rich alone to be the purchasers; and the king of Spain admired the performances of Van Kessel to such a degree, that he purchased as many of them as he could possibly procure, till at last he prevailed on that artist to visit his court, where he was appointed painter to the queen, and was retained in her service as long as she lived. He painted portraits admirably, with a light free touch, and a tone of colour that very much resembled Vandyck; nor are his works in that style considered in Spain as inferior to that great master. He died in 1708, aged 82.

KESSELDORF, a village of Germany, in the circle of Upper Saxony, three miles below Dresden, remarkable for the battle gained by the king of Prussia over the Saxons, on the 15th of December 1745.

KESTREL, the English name of a hawk, called also the *flannel* and the *windhover*, and by authors the *tinnunculus* and *chencris*. It builds with us in hollow

Kersey
Kestrel.

Keswick hollow oaks, and feeds on partridges and other birds.

See FALCO.

KESWICK, a town of Cumberland, situated on the side of a lake in a fruitful plain, almost encompassed with mountains, called the *Terwent Fells*. It was formerly a town of good note, but now is much decayed. However, it is still noted for its mines and miners, who have a convenient smelting-house on the side of the river Derwent, the stream of which is so managed as to make it work the bellows, hammers, and forge, as also to saw boards. There is a work-house here for employing the poor of this parish and that of Crosthwait. W. Long. 3. 0. N. Lat. 54. 30.

KETCH, a vessel equipped with two masts, viz. the main-mast and mizen-mast, and usually from 100 to 250 tons burden.—Ketches are principally used as yachts or as bomb-vessels; the former of which are employed to convey princes of the blood, ambassadors, or other great personages, from one part to another; and the latter are used to bombard citadels, towns, or other fortresses. The bomb-ketches are therefore furnished with all the apparatus necessary for a vigorous bombardment; they are built remarkably strong, as being fitted with a greater number of *riders* than any other vessel of war; and indeed this reinforcement is absolutely necessary to sustain the violent shock produced by the discharge of their mortars, which would otherwise in a very short time shatter them to pieces.

KETTLE, in the art of war, a term the Dutch give to a battery of mortars, because it is sunk under ground.

KETTLE-Drums, are formed of two large basins of copper or brass, rounded at the bottom, and covered over with vellum or goat-skin, which is kept fast by a circle of iron, and by several holes fastened to the body of the drum, and a like number of screws to screw up and down, and a key for the purpose. The two basins are kept fast together by two straps of leather which go through two rings, and are fastened the one before and the other behind the pommel of the kettle-drums saddle. They have each a banner of silk or damask, richly embroidered with the sovereign's arms or with those of the colonel, and are fringed with silver or gold; and, to preserve them in bad weather, they have each a cover of leather. The drumsticks are of crab-tree or of any other hard wood, of eight or nine inches long, with two knobs on the ends, which beat the drum-head and cause the sound. The kettle-drum with trumpets is the most martial sound of any. Each regiment of horse has a pair.

KETTLE-Drummer, a man on horseback appointed to beat the kettle-drums, from which he takes his name. He marches always at the head of the squadron, and his post is on the right when the squadron is drawn up.

KETTLEWELL (John), a learned divine, born in 1653, was descended from an ancient family in the North-riding of Yorkshire, bred in Edmund-Hall Oxford, and elected fellow of Lincoln-college. In 1675, he went into orders; but after the revolution was deprived of his living, on account of his refusal to take the oaths to King William and Queen Mary. He died of a consumption in 1695. He published several works, which were collected and reprinted together in 1718, in

2 vols folio. He was a man of great candour, meekness, piety, and charity.

KEVELS, in ship-building, a frame composed of two pieces of timber, whose lower ends rest in a sort of step or foot, nailed to the ship's side, from whence the upper ends branch outward into arms or horns, serving to belay the great ropes by which the bottoms of the main-sail and fore-sail are extended.

KEW, a village of Surry in England, opposite to Old Brentford, 10 miles west from London. Here is a chapel of ease erected at the expence of several of the nobility and gentry in the neighbourhood, on a piece of ground that was given for that purpose by the late Queen Anne. Here the late Mr Molineux secretary to the late king, when prince of Wales, had a fine seat on the Green, which became the residence of the late prince and princess of Wales, who greatly improved both the house and gardens; now occupied by his present majesty, who has greatly enlarged the gardens, and formed a junction with them and Richmond gardens. The gardens of Kew are not very large, nor is their situation by any means advantageous, as it is low and commands no prospects. Originally the ground was one continued dead flat; the soil was in general barren, and without either wood or water. With so many disadvantages it was not easy to produce any thing even tolerable in gardening; but princely munificence, guided by a director equally skilled in cultivating the earth and in the politer arts, overcame all difficulties. What was once a desert is now an Eden. In 1758, an act passed for building a bridge across the Thames to Kew-Green; and a bridge was built of eleven arches; the two piers and their dependant arches on each side next the shore, built of brick and stone; the intermediate arches entirely wood; the centre arch 50 feet wide, and the road over the bridge 30. But this bridge is to be taken down as soon as a very elegant one, now erecting close by it (1791), is completed.

KEXHOLM, that part of Finland which borders upon Russia. The lake Ladoga crosses it, and divides it into two parts. By the treaty between Russia and Sweden in 1721, the Swedes were obliged to abandon the best part to the Russians. The country in general is full of lakes and marshes, thinly inhabited, and badly cultivated. The lake above mentioned is 120 miles in length, and full of fish.

KEXHOLM, or *Carelgorod*, a town of Russia, in a territory of the same name, not very large, but well fortified, and has a strong castle. The houses are built with wood. It formerly belonged to the Russians, after which the Swedes had possession of it for a whole century; but it was retaken by the Russians in 1710. Near it is a considerable salmon-fishery. It is seated on two islands on the north-west side of the lake Ladoga, in E. Long. 30. 25. N. Lat. 61. 12. Near it is another town called *New-Kexholm*.

KEY, an instrument for the opening of locks. See LOCK.

L. Molinus has a treatise of keys, *De clavibus veterum*, printed at Upsal: he derives the Latin name *clavis*, from the Greek *κλειω*, *claudio*, "I shut;" or from the adverb *clam* "privately;" and adds, that the use of keys is yet unknown in some parts of Sweden.

The invention of keys is owing to one Theodore of Samos,

Key.

Samos, according to Pliny and Polydore Virgil: but this must be a mistake, the use of keys having been known before the siege of Troy; mention even seems made of them in the 19th chapter of Genesis.

Molinus is of opinion, that keys at first only served for the untying certain knots, wherewith they anciently secured their doors: but the Laconic keys, he maintains, were nearly akin in use to our own; they consisted of three single teeth, and made the figure of an E; of which form there are still some to be seen in the cabinets of the curious.

There was another key called *βαλανύγερ*, made in the manner of a male-screw; which had its corresponding female in a bolt affixed to the door. Key is hence become a general name for several things serving to shut up or close others. See the article LOCK.

KEY, or *Key-stone*, of an Arch or Vault, is the last stone placed a-top thereof; which being wider and fuller at the top than bottom, wedges, as it were, and binds all the rest. The key is different in the different orders: in the Tuscan and Doric it is a plain stone only projecting; in the Ionic it is cut and waved somewhat after the manner of consoles; in the Corinthian and Composite it is a console enriched with sculpture, foliages, &c.

KEY is also used for ecclesiastical jurisdiction; particularly for the power of excommunicating and absolving. The Romanists say, the pope has the power of the keys, and can open and shut Paradise as he pleases; grounding their opinion on that expression of Jesus Christ to Peter, "I will give thee the keys of the kingdom of heaven." In St Gregory we read, that it was the custom heretofore for the popes to send a golden key to princes, wherein they inclosed a little of the filings of St Peter's chains kept with a world of devotion at Rome; and that these keys were worn in the bosom, as being supposed to contain some wonderful virtues.

KEY is also used for an index or explanation of a cipher. See CIPHER.

KEYS of an Organ, *Harpsichord*, &c. those little pieces in the fore-part of those instruments, by means whereof the jacks play, so as to strike the strings. These are in number 28 or 29. In large organs there are several sets of the keys, some to play the secondary organ, some for the main-body, some for the trumpet, and some for the echoing trumpet, &c.; in some there are but a part that play, and the rest are only for ornament. There are 20 flits in the large keys, which make half-notes. See the article ORGAN, &c.

KEY, in music, a certain fundamental note or tone, to which the whole piece, be it in cantata, sonata, concerto, &c. is accommodated; and with which it usually begins but always ends.

KEY, or Quay, a long wharf, usually built of stone, by the side of a harbour or river, and having several storehouses for the convenience of lading and discharging merchant-ships. It is accordingly furnished with posts and rings, whereby they are secured; together with cranes, capsterns, and other engines, to lift the goods into or out of the vessels which lie along-side.

The verb *cajare*, in old writers, according to Scaliger, signifies to keep in or restrain; and hence came

our term *key* or *quay*, the ground where they are made being bound in with planks and posts. Keynsham, Keyser.

KEYS are also certain sunken rocks lying near the surface of the water, particularly in the West-Indies.

KEYNSHAM, a town of Somersetshire, 116 miles from London. It is a great thoroughfare in the lower road between Bath and Bristol. They call it proverbially *smoaky* Keynsham, and with equal reason they might call it *foggy*. It has a fine large church, a stone bridge of 15 arches over the Avon to Gloucestershire, and another over the river Chew. Its chief trade is malting. It has a charity-school, a weekly market, and three fairs.

KEYSER'S PILLS, a celebrated mercurial medicine, the method of preparing which was purchased by the French government, and has since been published by M. Richards.

The first, and what, according to Mr Keyser, is the most essential operation, consists in separating the mercury very exactly from all heterogeneous matter, by reducing it to an æthiops. This is effected by means of an hydraulic machine, a plan of which Mr Keyser intended to have given to government before his death: but although he did not live to accomplish his resolution, his family still offer to do it when desired. According to the description given by M. Richard, this machine consists of a number of buckets, in which mercury is triturated with water, till the water acquires a black colour. This water, upon standing, deposits a sediment, which, being dried by a proper heat, is the æthiops required.

The second process consists in revivifying the mercury by distillation, in freeing it from all oily matters by means of quick-lime, in detaching this quick-lime by repeated washings, and afterwards in drying it by means of a sand heat.

The third operation consists in the reduction of the mercury purified by this process to a red calx, by means of heat. In conducting this operation, Mr Keyser advises, that the mercury be put into glass matrasses, a small quantity only in each. For the proper degree of heat, he directs those who would practise the operation to consult Lemery and other chemists.

The fourth operation is, the dissolution of the calcined mercury, obtained by the former process, in distilled vinegar, by means of triture. A pound of this mercury may be dissolved in eight pints of vinegar, by rubbing it for an hour or two in a mortar, which should be kept solely for that purpose. Care must also be taken that the vinegar be not distilled in a metallic but in a glass vessel.

The fifth process consists in the intimate mixture of this vinegar, impregnated with mercury, with manna. Each pound of the vinegar containing about two ounces of mercury, will require two pounds of manna. They must be rubbed together upon marble stones till they acquire a uniform consistence, which will be liquid to such a degree as to pass through a hair-cloth, for separating the impurities of the manna. After being managed in this manner, it must be spread upon a marble slab, and left to dry there, without the assistance of fire, till it acquires such a consistence as not to

Keyser,
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Kiang-Nan.

run off upon the table being turned to its side. It must then be placed before the fire, and at the same time moved from one part of the stone to another, by means of a knife, furnished with a large pliant blade. By this means, it is perfectly prepared for forming the pills.

The sixth and last process consists in the formation of the mass thus prepared into pills. These Mr Keyser made to weigh either three grains or a grain and a half; the first for robust, the last for delicate constitutions.

To this account given for the preparation of these pills, Mr Keyser has added some reflections, by way of supplement. He observes, that, by the purification of the mercury from distillation, a great quantity of heterogeneous matter is separated from it. This, however, by no means frees it completely from all foreign matter. And, as mercury purified, upon being calcined and dissolved in vegetable acid, is a much more powerful medicine than mercury calcined without purification, he concludes, that repeated purifications would render it still more active.

Another remark which he gives, respects the dissolution of the mercurius calcinatus in the distilled vinegar. He observes, that the mercury thus dissolved may be made to unite with running mercury, and to form a very singular product. He formerly mentioned, that a pound of this mercurius calcinatus was to be dissolved in eight pints of vinegar. If to this be added two pounds of running mercury, and the agitation continued, a substance will arise to the surface in the form of cream. This being removed by the assistance of a wooden spoon, more will continue to rise as long as the agitation is continued. The cream being dried and incorporated with manna, in the proportion of one part of the cream to eight of manna, forms a very useful purgative, and is said to be an effectual remedy against recent venereal complaints, particularly against chancres.

M. Richard concludes his account of Keyser's pills with observing, that he considers it to be, without exception, the most effectual remedy for the venereal disease hitherto discovered. But before entering upon the detail, he remarks, that it is his opinion the process may be much abridged, without diminishing the efficacy of the medicine. He judged it proper, however, to deliver to the public the method of preparing the pills in Mr Keyser's own words; and he has not afterwards pointed out the improvements he proposes.

KEYSLER (John George), a learned German antiquarian, was born at Thourneau in 1689. After studying at the university of Halle, he was appointed preceptor to Charles Maximilian and Christian Charles, the young counts of Giech Buchau; with whom he travelled through the chief cities of Germany, France, and the Netherlands, gaining great reputation among the learned as he went along, by illustrating several monuments of antiquity, particularly some fragments of Celtic idols lately discovered in the cathedral of Paris. Having acquitted himself of this charge with great honour, he procured in 1716 the education of two grandsons of Baron Bernstorff first minister of state to his Britannic majesty as elector of Brunswick Lunenburg. However, obtaining leave in 1718 to vi-

sit England, he was elected a fellow of the Royal Society for a learned essay *De Dea Neheleunia numine veterum Walachorum topico*: he gave also an explanation of the ancient monument on Salisbury plain called *Stone-henge*, with A Dissertation on the Consecrated Mistletoe of the Druids. Which detached essays, with others of the same kind, he published on his return to Hanover, under the title of *Antiquitates selectæ Septentrionales et Celticæ*, &c. He afterwards made the grand tour with the young barons, and to this tour we owe the publication of his travels; which were translated into English, and published in 1756, in 4 vols 4to. Mr Keyser on his return spent the remainder of his life under the patronage of his noble pupils, who committed their fine library and museum to his care, with a handsome income. He died in 1743.

KIAM, a great river of China, which takes its rise near the western frontier, crosses the whole kingdom eastward, and falls into the bay or gulph of Nanking, a little below that city.

KIANG-SI, a province of China, bounded on the north by that of Kiang-nan, on the west by Hou-quang, on the south by Quang-tong, and on the east by Fo-kien and Tche-kiang. The country is extremely fertile; but it is so populous, that it can scarcely supply the wants of its inhabitants: on this account they are very economical; which exposes them to the sarcasms and raillery of the Chinese of the other provinces: however, they are people of great solidity and acuteness, and have the talent of rising rapidly to the dignities of the state. The mountains are covered with simples; and contain in their bowels mines of gold, silver, lead, iron, and tin: the rice it produces is very delicate, and several barks are loaded with it every year for the court. The porcelain made here is the finest and most valuable of the empire. This province contains 13 cities of the first class, and 78 of the second and third.

KIANG-Nan, a province of China, and one of the most fertile, commercial, and consequently one of the richest, in the empire. It is bounded on the west by the provinces of Ho-nan and Hou-quang; on the south by Tche-kiang and Kiang-si; and on the east by the gulph of Nanking; the rest borders on the province of Chan-tong. The emperors long kept their court in this province; but reasons of state having obliged them to move nearer to Tartary, they made choice of Pe-king for the place of their residence. This province is of vast extent; it contains fourteen cities of the first class, and ninety-three of the second and third. These cities are very populous, and there is scarcely one of them which may not be called a place of trade. Large barks can go to them from all parts; because the whole country is intersected by lakes, rivers, and canals, which have a communication with the great river Yang-tse-kiang, which runs through the middle of the province. Silk-stuffs, lacquer-ware, ink, paper, and in general every thing that comes from Nanking, as well as from the other cities of the province, are much more esteemed, and fetch a higher price than those brought from the neighbouring provinces. In the village of Chang-hai alone, and the villages dependent on it, there are reckoned to be more than 200,000 weavers of common cotton cloths. The manufacturing of these cloths gives employment to the greater part of the

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the women.—In several places on the sea coast there are found many salt-pits, the salt of which is distributed all over the empire. In short this province is so abundant and opulent, that it brings every year into the emperor's treasury about 32,000,000 taels (or ounces of silver), exclusive of the duties upon every thing exported or imported. The people of this country are civil and ingenious, and acquire the sciences with great facility: hence many of them become eminent in literature, and rise to offices of importance by their abilities alone. This province is divided into two parts, each of which has a distinct governor. The governor of the eastern part resides at Sou-tcheou-fou, that of the western at Ngan-king-fou. Each of these governors has under his jurisdiction seven *fou* or cities of the first class.

KIBURG, a town of the canton of Zurich in Switzerland, with a castle; seated on the river Theoff, in E. Long. 8. 50. N. Lat. 47. 20.

KID, in zoology, the name by which young goats are called. See GOAT.

KIDDER (Dr Richard), a learned English bishop, was born in Suffex, and bred at Cambridge. In 1689, he was installed dean of Peterborough; and in 1691, was nominated to the bishopric of Bath and Wells, in the room of Dr Thomas Ken, who had been deprived for not taking the oaths to king William and queen Mary. He published, 1. The young man's duty. 2. A demonstration of the Messiah, 3 vols 8vo. 3. A commentary on the five books of Moses, 2 vols 8vo; and several other pious and valuable tracts. He was killed with his lady in his bed by the fall of a stack of chimneys, at his house in Wells, during the great storm in 1703. The bishop, in the dissertation prefixed to his commentary on the five books of Moses, having reflected upon Monsieur Le Clerc, some letters passed between them in Latin, which are published by Le Clerc in his *Bibliothèque Choisie*.

KIDDERMINSTER, or KEDDERMINSTER, a town of Worcesterhire, seated under a hill on the river Stour, not far from the Severn, 128 miles from London. It is a large town of 1180 houses, with about 6000 inhabitants, who carry on an extensive trade in weaving in various branches. In 1735 a carpet manufactory was established with success, so as to employ in 1772 above 250 looms; and there are upwards of 700 looms employed in the silk and worsted. Above 1600 hands are employed as spinners, &c. in the carpet looms only in the town and neighbourhood; upwards of 1400 are employed in preparing yarn, which is used in different parts of England in carpeting; and it is supposed not less than 2000 are employed in the silk and worsted looms in the town and neighbourhood. The silk manufactory was established in 1755. The town is remarkably healthy, and has also an extensive manufacture of quilting in the loom in imitation of Marseilles quilting. Here is a Presbyterian meeting house; and they have a handsome church, two good free-schools, a charity-school, and two alms-houses, &c. The town is governed by a bailiff, 12 capital burgessees, 25 common councilmen, &c. who have a town-hall. It formerly sent members to parliament. By the late inland navigation, it has communication by the junction of the Severn canal with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames,

Avon, &c. which navigation, including its windings, extends above 500 miles, in the counties of Lincoln, Nottingham, York, Lancaster, Westmoreland, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c. This parish extends to Bewdley-bridge, has a weekly market, and three fairs. W. Long. 2. 15. N. Lat. 52. 28.

KIDDERS, those that badge or carry corn, dead victuals, or other merchandise, up and down to sell: every person being a common badger, kiddier, lader, or carrier, &c. says the stat. 5. Eliz. cap. 12. And they are called *kiddiers*, 13 Eliz. cap. 25.

KIDDLE, or KIDEL, (*Kidellus*), a dam or wear in a river with a narrow cut in it, for the laying of pots or other engines to catch fish.

The word is ancient; for in Magna Charta, cap. 24. we read, *Omnes kidelli deponantur per Thamesiam & Medweyam, & per totam Angliam, nisi per costeram maris*. And by king John's charter, power was granted to the city of London, *de kidellis amovendis per Thamesiam & Medweyam*. A survey was ordered to be made of the wears, mills, flanks, and kidells, in the great rivers of England, 1 Hen. IV. Fishermen of late corruptly call these dams *kettles*; and they are much used in Wales and on the sea-coasts of Kent.

KIDDINGTON, a town of Oxfordshire, four miles from Woodstock, and 12 from Oxford. It is situated on the Glym river, which divides the parish in two parts, viz. Over and Nether Kiddington, in the latter of which stands the church. This parish was given by King Offa in 780 to Worcester priory. Here King Ethelred had a palace; in the garden of the manor-house is an antique font brought from Edward the Confessor's chapel at Islip, wherein he received baptism. In Hill-wood near this place is a Roman encampment in extraordinary preservation, but little noticed.

KIDNAPPING, the forcible abduction or stealing away of man, woman, or child, from their own country, and sending them into another. This crime was capital by the Jewish law: "He that stealeth a man and selleth him, or if he be found in his hand, shall surely be put to death*." So likewise in the civil law, the offence of spiriting away and stealing men and children, which was called *plagium*, and the offenders *plagiarii*, was punished with death. This is unquestionably a very heinous crime, as it robs the king of his subjects, banishes a man from his country, and may in its consequences be productive of the most cruel and disagreeable hardships; and therefore the common law of England has punished it with fine, imprisonment, and pillory. And also the statute 11 and 12 W. III. c. 7. though principally intended against pirates, has a clause that extends to prevent the leaving of such persons abroad as are thus kidnapped or spirited away; by enacting, that if any captain of a merchant-vessel shall (during his being abroad) force any person on shore, or wilfully leave him behind, or refuse to bring home all such men as he carried out, if able and desirous to return, he shall suffer three months imprisonment.

KIDNEYS, in anatomy. See there, n^o 101.

KIDNEY-Bean. See PHASEOLUS.

KIEL, a city of Germany, in the duchy of Holstein, in the circle of Lower Saxony, and the residence

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† Exod. xxi.
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Kiggelaria dence of the duke of Holstein Gottorp. It has a castle, and a university founded in 1665; and there is a very celebrated fair held here. It is seated at the bottom of a bay of the Baltic Sea called *Killerwick*, at the mouth of the river Schwentin, in E. Long. 10. 17. N. Lat. 54. 26.

KIGGELARIA, in botany: A genus of the dicandia order, belonging to the diœcia class of plants; and in the natural method ranking under the 37th order, *Columnifera*. The male calyx is quinquepartite; the corolla pentapetalous; there are five trilobous glandules; the antheræ are perforated at top: the female calyx and corolla as in the male; there are five styles; the capsule unilocular, quinquevalved, and polyspermous. There is but one species, viz. the *Africana*. It hath an upright woody stem, and purplish branches, growing 15 or 18 feet high; oblong, sawed, alternate leaves; and diœcious, greenish-white flowers, in clusters from the sides of the branches; succeeded by globular rough fruit, the size of cherries, containing the seeds, which seldom ripen here. As this is a native of warm climates, it must be constantly kept in a stove in this country. It is propagated by seeds, layers, or cuttings, though most readily by seeds.

KIGHLEY, a town in the west riding of Yorkshire, six miles to the south-east of Skipton in Craven. It stands in a valley surrounded with hills at the meeting of two brooks, which fall into the river Aire one mile below it. Every family is supplied with water brought to or near their doors in stone troughs from a never-failing spring on the west side of it. The parish is six miles long and two broad, and is 60 miles from the east and west seas; yet at the west end of it near Camel-Cross is a rising ground, from which the springs on the east side of it run to the east sea, and those on the west to the west sea. By the late inland navigation, this town has a communication with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles, in the counties of Lincoln, Nottingham, Lancaster, Westmoreland, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c.

KILARNEY. See *KILLARNEY*.

KILBEGGAN, a post, fair, and borough town of Ireland, in the county of Westmeath and province of Leinster, 44 miles from Dublin. It returns two members to parliament; patronage in the Lambert family. It is seated on the river Brosna, over which there is a bridge. There was here a monastery founded in 1200, and dedicated to the Virgin Mary, and inhabited by monks from the Cistercian abbey of Melefont. The fairs are two.

KILDA (St), one of the Hebrides or western islands of Scotland. It lies in the Atlantic ocean, about 58. 30. N. Lat.; and is about three English miles in length from east to west, and its breadth from south to north not less than two. The ground of St Kilda, like much the greatest part of that over all the Highlands, is much better calculated for pasture than tillage.—Refrained by idleness, a fault or vice much more pardonable here than in any other part of Great Britain, or discouraged by the form of government under which they live, the people of the island study to rear up sheep, and to kill wild-fowl, much more

than to engage deeply in the more toilsome business of husbandry.—All the ground hitherto cultivated in this island lies round the village. The soil is thin, full of gravel, and of consequence very sharp. This, tho' naturally poor, is, however, rendered extremely fertile, by the singular industry of very judicious husbandmen: these prepare and manure every inch of their ground, so as to convert it into a kind of garden. All the instruments of agriculture they use, or indeed require, according to their system, are a spade, a mall, and a rake or harrow. After turning up the ground with a spade, they rake or harrow it very carefully, removing every small stone, every noxious root or growing weed that falls in their way, and pound down every stiff clod into dust. It is certain that a small number of acres well prepared in St Kilda, in this manner, will yield more profit to the husbandman than a much greater number when roughly handled in a hurry, as is the case in the other western isles. The people of St Kilda sow and reap much earlier than any of their neighbours on the western coast of Scotland. The heat of the sun, reflected from the hills and rocks into a low valley facing the south-east, must in the summer time be quite intense; and however rainy the climate is, the corn must for these reasons grow very fast and ripen early.

The harvest is commonly over at this place before the beginning of September; and should it fall out otherwise, the whole crop would be almost destroyed by the equinoctial storms. All the islanders on the western coast have great reason to dread the fury of autumnal tempests: these, together with the excessive quantities of rain they have generally throughout seven or eight months of the year, are undoubtedly the most disadvantageous and unhappy circumstances of their lives.

Barley and oats are the only sorts of grain known at St Kilda; nor does it seem calculated for any other. Fifty bolls of the former, old Highland measure, are every year brought from thence to Harris; and all the western islands hardly produce any thing so good of the kind. Potatoes have been introduced among that people only of late, and hitherto they have raised but small quantities of them. The only appearance of a garden in this whole land, so the natives call their principal island in their own language, is no more than a very inconsiderable piece of ground, which is inclosed and planted with some cabbages. On the east side of the island, at the distance of a quarter of a mile from the bay, lies the village, where the whole body of this little people (the number amounting in 1764 to no more than 88) live together like the inhabitants of a town or city. It is certain that the inhabitants were much more numerous formerly than at present; and the island, if under proper regulations, might easily support 300 souls. Martin, who visited it about the end of the last century, found 180 persons there; but about the year 1730, one of the people coming to the island of Harris, was seized with the small-pox and died. Unluckily his clothes were carried away by one of his relations next year; and thus was the infection communicated, which made such havoc, that only four grown persons were left alive. Their houses are built in two rows, regular, and facing one another; with a tolerable causeway in the middle, which they

Kilda.

Kilda.

they call the *street*. These habitations are made and contrived in a very uncommon manner. Every one of them is flat in the roof, or nearly so, much like the houses of some oriental nations. That from any one of these the St Kildans have borrowed their manner of building, no man of sense will entertain a suspicion. They have been taught this lesson by their own reason, improved by experience. The place in which their lot has fallen is peculiarly subject to violent squalls and furious hurricanes: were their houses raised higher than at present, they believe the first winter-storm would bring them down about their ears. For this reason the precaution they take in giving them roofs much flatter than ordinary seems to be not altogether unnecessary. The walls of these habitations are made of a rough gritty kind of stones, huddled up together in haste, without either lime or mortar, from eight to nine feet high. In the heart of the walls are the beds, which are overlaid with flags, and large enough to contain three persons. In the side of every bed is an opening, by way of door, which is much too narrow and low to answer that purpose. All their dwelling-houses are divided into two apartments by partition-walls. In the division next the door, which is much the largest, they have their cattle stalled during the whole winter-season; the other serves for kitchen, hall, and bed-room.

It will be readily expected, that a race of men and women bred in St Kilda must be a very slovenly generation, and every way inelegant. It is indeed impossible to defend them from this imputation. Their method of preparing a sort of manure, to them indeed of vast use, proves that they are very indelicate. After having burnt a considerable quantity of dried turf, they spread the ashes with the nicest care over the floor of that apartment in which they eat and sleep. These ashes, so exactly laid out, they cover with a rich friable sort of earth; over this bed of earth they scatter a proportionable heap of that dust into which peats are apt to crumble away: this done, they water, tread, and beat the whole compost into a hard floor, on which they immediately make new fires very large, and never extinguished till they have a sufficient stock of new ashes on hand. The same operations are repeated with a never-failing punctuality, till they are just ready to sow their barley; by that time the walls of their houses are sunk down, or, to speak more properly, the floors risen about four or five feet.

To have room enough for accumulating heaps of this compost one above another, the ancient St Kildians had ingenuity enough to contrive their beds within the linings of their walls; and it was for the same reason they took care to raise these walls to an height far from being common in the other western islands. The manure produced in this way must undoubtedly be good; though probably rather sharp than of long duration, as it is scattered in small quantities upon the surface of the ground. Be that as it will, those who practice this art are abundantly lavish in its praises. They call it a *commodity inestimably precious*; and one may venture to affirm, that a genuine St Kildian would scruple to barter it away for all the diamonds in Brasil and Golconda.

It is certain that cleanliness must contribute greatly
N^o 172.

to health, and of course longevity; but in spite of that instance of indelicacy now given, and many more which might have been added, the people of this island are not more short-lived than other men. Their total want of those articles of luxury, which have so natural a tendency to destroy the constitution of the human body, and their moderate exercises, will, together with some other circumstances, keep the balance of life equal enough between them and those who are absolute strangers to slovenliness.

Besides the dwelling-houses already described, there are a prodigious number of little cells dispersed over all the island; which consist entirely of stones, without any the smallest help of timber. These cells are from 12 to 18 feet in length, and a little more than seven in height. Their breadth at the foundation is nearly equal to the height. Every stone hangs above that immediately below, not perpendicularly, but inclines forward, so as to be nearer the opposite side of the grotto, and thus by imperceptible degrees till the two highest courses are near enough to be covered by a single flag at the top. To hinder the rain from falling down between the interstices above, the upper part of the building is overlaid with turf, which looks like a fine green sward while new. The inhabitants secure their peats, eggs, and wild-fowl, within these small repositories: every St Kildian has his share of them, in proportion to the extent of land he possesses, or the rent he pays to the steward. From the construction of these cells, and the toil they must have cost before they could have been finished, it seems plain, that those who put them together, were, if not more ingenious than their neighbours in the adjacent islands, at least more industrious than their own successors.

The St Kilda method of catching wild-fowl is very entertaining. The men are divided into fowling-parties, each of which consists generally of four persons distinguished by their agility and skill. Each party must have at least one rope about 30 fathoms long; this rope is made out of a strong raw cow-hide, salted for that very purpose, and cut circularly into three thongs all of equal length; these thongs being closely twisted together, form a three-fold cord, able to sustain a great weight, and durable enough to last for about two generations: to prevent the injuries it would otherwise receive from the sharp edges of the rocks, against which they must frequently strike, the cord is lined with sheep-skins, dressed in much the same manner.

This rope is a piece of furniture indispensably necessary, and the most valuable implement a man of substance can be possessed of in St Kilda. In the testament of a father, it makes the very first article in favour of his eldest son: should it happen to fall to a daughter's share, in default of male heirs, it is reckoned equal in value to the two best cows in the island.

By the help of such ropes, the people of the greatest prowess and experience here traverse and examine rocks prodigiously high. Linked together in couples, each having either end of the cord fastened about his waist, they go frequently through the most dreadful precipices: when one of the two descends, his colleague plants himself on a strong shelf, and takes care
to

Kilda.

Kildare. to have such sure footing there, that if his fellow-adventurer makes a false step, and tumbles over, he may be able to save him.

The following anecdote of a steward of St Kilda's deputy will give the reader a specimen of the dangers they undergo, and at the same time of the uncommon strength of the St Kildians. This man, observing his colleague lose his hold, and tumbling down from above, placed himself so firmly upon the shelf where he stood, that he sustained the weight of his friend, after falling the whole length of the rope. Undoubtedly these are stupendous adventures, and equal to any thing in the feats of chivalry. Mr Macaulay gives an instance of the dexterity of the inhabitants of St Kilda in catching wild-fowl, to which he was an eye-witness. Two noted heroes were drawn out from among all the ablest men of the community: one of them fixed himself on a craggy shelf; his companion went down 60 fathoms below him; and after having darted himself away from the face of a most alarming precipice hanging over the ocean, he began to play his gambols; he sung merrily, and laughed very heartily: after having performed several antic tricks, and given all the entertainment his art could afford, he returned in triumph, and full of his own merit, with a large string of fowls about his neck, and a number of eggs in his bosom. This method of fowling resembles that of the Norwegians, as described by bishop Pontoppidan.

KILDARE, a town of Ireland, and capital of a county of the same name, is situated 28 miles south-west of Dublin. It returns two members to parliament, patron the duke of Leinster; and is governed by a sovereign, recorder, and two portreeves. The church of Kildare was very early erected into a cathedral with episcopal jurisdiction, which dignity it retains to this day; the cathedral, however, has been for several years neglected, and at present is almost in ruins. St Brigid founded a nunnery at Kildare, which afterwards came into the possession of the regular canons of St Augustin: this saint died 1st February 523, and was interred here; but her remains were afterwards removed to the cathedral church of Down. In the year 638, *Aod Dubh* or *Black Hugh* king of Leinster abdicated his throne, and took on him the Augustinian habit in this abbey; he was afterwards chosen abbot and bishop of Kildare, and died on the 10th May. In 756, Eiglitigin the abbot, who was also bishop of Kildare, was killed by a priest as he was celebrating mass at the altar of St Brigid; since which time no priest whatsoever was allowed to celebrate mass in that church in the presence of a bishop. In 1220 Henry de Loundres archbishop of Dublin put out the fire called *inextinguishable*, which had been preserved from a very early time by the nuns of St Brigid. This fire was however relighted, and continued to burn till the total suppression of monasteries. Here was also a Grey abbey on the south side of the town, erected for friars of the Franciscan order, or, as they were more generally called, *Grey friars*, in the year 1260, by Lord William de Vesey; but the building was completed by Gerald Fitzmaurice, Lord Offaley. A considerable part of this building yet remains, which appears not to have been of very great extent. A house for white friars was likewise founded in this town by William de

Vesey in 1290; the round tower here is 130 feet high, built of white granite to about 12 feet above the ground, and the rest of common blue stone. The pedestal of an old cross is still to be seen here; and the upper part of a cross lies near it on the ground.—Fairs are held here on 12th February, Easter-Tuesday, 12th May, and 19th September. The fairs held here are four.

KILDARE, a county of Ireland, in the province of Leinster, which is 37 miles in length and 20 in breadth; and is bounded on the east by Dublin and Wicklow, on the west by King and Queen's county, on the north by East-Meath, and on the south by Catherlogh. It is a fine arable country, well watered by the Barrow, Liffey, and other rivers, and well inhabited and cultivated, containing 228,590 Irish plantation acres, 100 parishes, 10 baronies, 4 boroughs, and returns 10 members to parliament. The chief town is of the same name, and gave title of earl to the noble family of Fitzgerald. It was anciently called *Chilledair*, i. e. "the wood of oaks," from a large forest which comprehended the middle part of this county; in the centre of this wood was a large plain, sacred to heathen superstition, and at present called the *Curragh* of *Kildare*; at the extremity of this plain, about the commencement of the 6th century, St Brigid, one of the heathen vestals, on her conversion to the Christian faith, founded, with the assistance of St Conlath, a church and monastery, near which, after the manner of the Pagans, St Brigid kept the sacred fire in a cell, the ruins of which are still visible.

KILDERKIN, a liquid measure, containing two firkins.

KILIAN (Lucas), an eminent engraver, was a native of Augsburg in Germany, and flourished at the beginning of the 17th century. In what school he learned the art is uncertain; but his style of engraving bears no small resemblance in many particulars to that of Henry Goltzius, and of John Muller his disciple. It appears, however, that he went to Italy in order to complete his studies, where he engraved several plates from the pictures of the great Italian masters. According to Mr Strutt, few artists have manifested a greater command of the graver than Kilian, whether we consider the facility with which the strokes are turned upon each other, or the firmness with which they are executed; and one cannot help admiring it, though it evidently strikes us, that by paying too close attention to this part of the art, he neglected the correctness of his outlines, and fatigued the lights with unnecessary work; by which means he broke the masses, and often totally destroyed the effect of his prints. The naked parts of the human figure are seldom well expressed; the extremities especially are in general very heavy, and sometimes incorrect. Upon the works of this master, however, it appears, that Balechou, so famous for his skill in handling of the graver, formed his taste. His works are exceedingly numerous. The time of his death is not any where mentioned.—There were several other engravers of the same name and family; but of too inferior merit to deserve particular notice.

KILIANUS (Cornelius), a native of Brabant, distinguished himself as an excellent corrector of the press at the printing-house of Plantin for 50 years.

Kildare
||
Kilianus.

Kilkenny. He likewise wrote several books which are esteemed. His *Apology for Correctors against Authors*, an epigram of 18 verses, is a proof of his abilities in Latin poetry.

KILKENNY, a county of Ireland, in the province of Leinster, bounded on the south by the county of Waterford, on the north by the Queen's county, on the west by the county of Tipperary, on the east by the counties of Wexford and Catherlogh, and on the north-west by Upper Ossory. The greatest length of this county from north to south is 38 miles, the breadth from east to west 18; and it contains 10 baronies. It is one of the most healthful, pleasant, and populous counties of Ireland. It contains 287,650 Irish plantation acres, 96 parishes, 9 baronies, and 7 boroughs, and returns 16 members to parliament. Gilbert Clare, Earl of Gloucester and Hereford, marrying Isabella, one of the daughters and co-heiresses of William earl Marshal, received as her dower the county of Kilkenny.

KILKENNY, the capital of a county of the same name in Ireland, situated in the province of Leinster, 57 miles south-west of Dublin. It takes its name from the cell or church of Canic, who was an eminent hermit in this country; and is one of the most elegant cities in the kingdom. It is the seat of the bishop of Ossory, which was translated from Agabo in Ossory, about the end of Henry II.'s reign, by bishop O'Dulany. The city is pleasantly situated on the Neor, a navigable river that discharges itself into the harbour of Waterford. It is said of Kilkenny, that its air is without fog, its water without mud, its fire without smoke, and its streets paved with marble. The two latter are indeed matter of fact; for they have in the neighbourhood a kind of coal that burns from first to last without smoke, and pretty much resembles the Welsh coal. Most of the streets also are actually paved with a very good sort of black marble; of which they have large quarries near the town, which takes a fine polish, and is beautifully intermixed with white granite. The air too is good and healthy, though not remarkably clearer than in many other parts of the kingdom. The city is governed by a mayor, recorder, aldermen, and sheriffs. It comprises two towns, viz. Kilkenny so called, and Irish-town, each of which sends two members to parliament, and both together are computed to contain about 20,000 inhabitants. This city was once of great consequence, as may be seen by the venerable ruins yet remaining of churches, monasteries, and abbeys, which even now in their dilapidated state exhibit such specimens of exquisite taste in architecture as may vie with any modern improvements; and the remains of its gates, towers, and walls, show it to have been a place of great strength. Here too at different times parliaments were held, in which some remarkable statutes were passed. It has two churches, and several catholic chapels; barracks for a troop of horse and four companies of foot; a market is held twice in the week, and there are seven fairs in the year.—Irish-town is more properly called the borough of *St Canice*, vulgarly *Kenny*; the patronage of which is in the bishop of Ossory. The cathedral, which stands in a sequestered situation, is a venerable Gothic pile, built above 500 years; and close to it is one of those remarkable round

towers which have so much engaged the attention of travellers. The bishop's palace is a handsome building, and communicates by a covered passage with the church. The castle was first built in 1195, on the site of one destroyed by the Irish in 1173. The situation in a military view was most eligible: the ground was originally a conoid, the elliptical side abrupt and precipitous, with the river running rapidly at its base: here the natural rampart was faced with a wall of solid masonry 40 feet high; the other parts were defended by bastions, curtains, towers, and outworks; and on the summit the castle was erected. This place, as it now stands, was built by the ancestors of the dukes of Ormond: here the Ormond family resided; and it is now in the possession of Mr Butler, a descendant of that illustrious race. The college originally founded by the Ormond family is rebuilt in a style of elegance and convenience. The tholsel and market-house are both good buildings; and over the latter is a suit of rooms, in which, during the winter and at races and assizes times, assemblies are held. There are two very fine bridges of cut marble over the Nore; John's Bridge particularly is light and elegant. The Ormond family built and endowed a free school in this city. Here are the ruins of three old monasteries, called *St John's*, *St Francis's*, and the *Black abbey*: belonging to the latter are the remains of several old monuments, almost buried in the ruins; and the courts of the others are converted into barracks. The manufactures chiefly carried on here are, coarse woollen cloths, blankets of extraordinary fine quality, and considerable quantities of starch. In the neighbourhood also are made very beautiful chimney-pieces of that species of stone already mentioned, called *Kilkenny marble*: they are cut and polished by water, a mill for that purpose (the only one of its kind perhaps in Europe) being invented by the late Mr Colles. The Kilkenny coal-pits are within nine miles of the town. This city came by marriage into the ancient family of Le Despencer. It was incorporated by charter from King James I. in 1609. The market-cross of Kilkenny continued an ornament to the city until 1771, when it was taken down; the date on it was MCCC. Sir James Ware mentions Bishop Cantwell's rebuilding the great bridge of Kilkenny, thrown down by an inundation about the year 1447. It appears also that St John's bridge fell down by a great flood in 1564; and on 2d October 1763, by another like circumstance, Green's bridge near the cathedral fell.—The borough of St Canice, or Irish-town, always enjoyed very ancient prescriptive rights. A close roll of 5 Edward III. A. D. 1376, forbids the magistrates of Kilkenny to obstruct the sale of victuals in the market of Irish-town, or within the cross, under the pretence of custom for murage; and lest the ample grants made to Kilkenny might be interpreted so as to include Irish-town, the corporation of the latter secured their ancient rights by letters-patent 15 Edward IV. A. D. 1474. These renew their former privileges, and appoint a portrieve to be chosen every 21st September, and sworn into office on the 11th October. The portrieve's prison was at Troy-gate. Whenever the mayor of Kilkenny came within Water-gate, he dropt down the point of the city-sword, to show he claimed no pre-eminence within the borough.

KILLALOE,

Killaloe,
Killarney.

KILLALOE, a bishop's see in the county of Clare and province of Munster, in Ireland, 86 miles from Dublin, otherwise *Lounia*. It was anciently written *Kill-da-Lua*, i. e. "the church of Lua," from *Lua*, or *Molua*, who about the beginning of the 6th century founded an abbey near this place. St Molua appears to have derived his name from *Loania*, the place of his residence, as was customary amongst the ancient Irish. On the death of St Molua, St Flannan his disciple, and son of the chief of the district, was consecrated bishop of this place at Rome about the year 639, and the church endowed with considerable estates by his father Theodorick. Towards the close of the 12th century, the ancient see of Roscrea was united to that of Killaloe; from which period these united bishoprics have been governed by the same bishops. At Killaloe is a bridge over the Shannon of 19 arches; and here is a considerable salmon and eel fishery. There are many ancient buildings in and about this town. The cathedral is a Gothic edifice in form of a cross, with the steeple in the centre, supported by four arches; it was built by Donald king of Limerick in 1160. There is a building near it, once the oratory of St Molua; and there is another of the same kind in an island on the Shannon, having marks of still higher antiquity. The see house of the bishop is at Clarisford, near to Killaloe. Adjoining to the cathedral are yet some remains of the mausoleum of Brien Boru.

KILLARNEY, a post-town of Ireland in the county of Kerry and province of Munster, seated near a fine lake called *Lough Lean*, or Lake of Killarney. It is distant 143 miles from Dublin, and has two fairs. Within a mile and a half of this place are the ruins of the cathedral of Aghadoe, an ancient bishoprick united to Ardfert; and within four miles the ruins of Aglish church. At this town is the seat and gardens of lord Kenmore.

The beautiful lake of Killarney is divided properly into three parts, called the *lower*, *middle*, and *upper* lake. The northern or lower lake is six miles in length and from three to four in breadth, and the town is situated on its northern shore. The country on this and the eastern boundary is rather of a tame character; but is here and there diversified with gentle swells, many of which afford delightful prospects of the lake, the islands, and surrounding scenery. The southern shore is composed of immense mountains, rising abruptly from the water, and covered with woods of the finest timber. From the centre of the lake the view of this range is astonishingly sublime, presenting to the eye an extent of forest six miles in length, and from half a mile to a mile and a half in breadth, hanging in a robe of rich luxuriance on the sides of two mountains, whose bare tops rising above the whole form a perfect contrast to the verdure of the lower region. On the side of one of these mountains is O'Sullivan's cascade, which falls into the lake with a roar that strikes the timid with awe on approaching it. The view of this sheet of water is uncommonly fine, appearing as if it were descending from an arch of wood, which overhangs it about 70 feet in height from the point of view. Coasting along this shore affords an almost endless entertainment, every change of position presenting a new scene; the rocks hollowed and worn into a va-

riety of forms by the waves, and the trees and shrubs bursting from the pores of the sapless stone, forced to assume the most uncouth shapes to adapt themselves to their fantastic situations. The islands are not so numerous in this as in the upper lake; but there is one of uncommon beauty, viz. Innisfallen, nearly opposite to O'Sullivan's cascade: It contains 18 Irish acres. The coast is formed into a variety of bays and promontories, skirted and crowned with arbutus, holly, and other shrubs and trees; the interior parts are diversified with hills, and dales, and gentle declivities, on which every tree and shrub appears to advantage: the soil is rich even to exuberance; and trees of the largest size incline across the vales, forming natural arches, with ivy entwining in the branches, and hanging in festoons of foliage. The promontory of Mucrufs, which divides the upper from the lower lake, is a perfect land of enchantment; there is a road carried through the centre of the promontory, which unfolds all the interior beauties of the place. Amongst the distant mountains, Turk appears an object of magnificence; and Mangerton's loftier, though less interesting summit, rears itself above the whole. The passage to the upper lake is round the extremity of Mucrufs, which confines it on one side, and the approaching mountains on the other. Here is the celebrated rock called the *eagle's nest*, which produces wonderful echoes. A French horn sounded here, raises a concert superior to 100 instruments; and the report of a single cannon is answered by a succession of peals resembling the loudest thunder, which seems to travel the surrounding scenery, and die away among the distant mountains. The upper lake is four miles in length, and from two to three in breadth; and is almost surrounded by mountains, from which descend a number of beautiful cascades. The islands in this lake are numerous, and afford an amazing variety of picturesque views.—The centre lake, which communicates with the upper, is but small in comparison with the other two, and cannot boast of equal variety. The shores, however, are in many places indented with beautiful bays, surrounded with dark groves of trees, some of which have a most picturesque appearance when viewed from the water. The eastern boundary is formed by the base of Mangerton, down the steep side of which descends a cascade visible for 150 yards: this fall of water is supplied by a circular lake near the summit of the mountain, called the *Devil's Punch Bowl*; which, on account of its immense depth, and the continual overflow of water, is considered as one of the greatest curiosities in Killarney.—Mr Smith seems to think, that one of the best prospects this admired lake affords, is from a rising ground near the ruined cathedral of Aghadoe.

The lake of Killarney is otherwise called *Lough Lane*, or *Loch Lean*, from its being surrounded by high mountains. Nennius says, that these lakes were encompassed by four circles of mines; the first of tin, the second of lead, the third of iron, and the fourth of copper. In the several mountains adjacent to the lakes are still to be seen the vestiges of the ancient mines of iron, lead, and copper; but tin has not as yet been discovered here. Silver and gold are said by the Irish antiquaries to have been found in the early ages: but this is somewhat doubtful, especially in any considerable quantity, though some silver probably was

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extracted from the lead ore, and small quantities of gold might have been obtained from the yellow copper ore of Mucrus. However, in the neighbourhood of these lakes were found in the early ages, as well as at present, pebbles of several colours, which taking a beautiful polish, the ancient Irish wore in their ears, girdles, and different articles of their dress and furniture.

KILLAS, a genus of stones belonging to the argillaceous class, found chiefly in Cornwall in England. Its texture is either lamellar or coarsely granular; the specific gravity from 2630 to 2666. It contains 60 parts of siliceous earth, 25 of argillaceous, 9 of magnesia, and 6 of iron. The greenish kind contains more iron, and gives a green tincture to the nitrous acid.

KILLICRANKIE, a noted pass of Perthshire in Scotland. It is formed by the lofty mountains impending over the water of Garrie, which rushes through in a deep, darksome, and horrid channel, beneath. In the last century this was a pass of much danger and difficulty; a path hanging over a tremendous precipice threatened destruction to the least false step of the traveller: at present a fine road formed by the soldiery lent by government, and encouraged by an additional 6d. per day, gives an easy access to the remote Highlands; and the two sides are joined by a fine arch.

Near the north end of this pass, in its open and unimproved state, was fought in the year 1689 the battle of Killicranky, between the adherents of James II. under Viscount Dundee, and of William III. under General Mackay. Dundee's army was very much inferior to that of Mackay's. When he came in sight of the latter, he found them formed in eight battalions ready for action. They consisted of 4500 foot, and two troops of horse. The Highlanders under Dundee amounted to little more than half that number. These he ranged instantly in order of battle. Maclean, with his tribe, formed the right wing. The Macdonalds of Sky, under their chieftain's eldest son, formed the left. The Camerons, the Macdonald's of Glengary, the followers of Clanronald, and a few Irish auxiliaries; were in the centre. A troop of horse were placed behind under Sir William Wallace. The officers sent by James from Ireland were distributed through all the line. His whole army stood in sight of the enemy for several hours on the steep side of a hill, which faced the narrow plain where Mackay had formed his line. Dundee wished for the approach of night; a season suited for either victory or flight.

At five of the clock in the afternoon, a kind of slight skirmish began between the right wing of the Highlanders and the left of the enemy. But neither army wishing to change their ground, the firing was discontinued for three hours. Dundee in the mean time flew from tribe to tribe, and animated them to action. At eight of the clock he gave the signal for battle, and charged the enemy in person at the head of the horse. The Highlanders in deep columns rushed suddenly down the hill. They kept their shot till they were within a pike's length of the enemy; and having fired their muskets, fell upon them sword in hand. Mackay's left wing could not for a moment sustain the shock. They were driven by the Macleans with great

slaughter from the field. The Macdonalds on the left of the Highlanders were not equally successful. Colonel Hastings' regiment of foot stood their ground. They even forced the Macdonald's to retreat. Maclean, with a few of his tribe, and Sir Evan Cameron at the head of his clan, fell suddenly on the flank of this gallant regiment, and forced them to give way. The slaughter ended not with the battle. Two thousand fell in the field and the flight. The tents, baggage, artillery, and provisions of the enemy, and even king William's Dutch standard, which was carried by Mackay's regiment, fell into the hands of the Highlanders. The victory was now complete. But the Highlanders lost their gallant leader. Perceiving the unexpected resistance of Colonel Hastings' regiment, and the confusion of the Macdonald's, Dundee rode rapidly to the left wing. As he was raising his arm, and pointing to the Cameron's to advance, he received a ball in his side. The wound proved mortal; and with Dundee fell all the hopes of king James at that time.

KILLIGREW (William), eldest son of Sir Robert Killigrew knight, was born in 1605. He was gentleman-usher of the privy-chamber to king Charles I. and on the restoration to Charles II. When the latter married the princess Catharine of Portugal, he was created vice-chamberlain; in which station he continued 22 years, and died in 1693. He was the author of four plays, which, though now thrown aside, were much applauded by the poets of that time, particularly by Mr Waller; and in the decline of life he published some pious reflections on the instability of human happiness, when our views are not directed to a future state.

KILLIGREW (Thomas), brother of the former, was born in 1611; and in process of time distinguished himself by his uncommon natural parts. He was page of honour to King Charles I. and groom of the bed-chamber to Charles II. with whom he suffered many years exile; during which he applied his leisure hours to the study of poetry, and to the composition of several plays. After the restoration he continued in high favour with the king, and had frequently access to him when he was denied to the first peers in the realm; and being a man of great wit and liveliness of parts, and having from his long intimacy with that monarch, and being continually about his person during his troubles, acquired a freedom and familiarity with him, which even the pomp of majesty afterwards could not check in him, he sometimes, by way of jest, which King Charles was ever fond of, if genuine, even though himself was the object of the satire, would adventure bold truths which scarcely any one besides would have dared even to hint at. One story in particular is related of him, which if true is a strong proof of the great lengths he would sometimes proceed in his freedoms of this kind, which is as follows:—When the king's unbounded passion for women had given his mistress such an ascendant over him, that, like the effeminate Persian monarch, he was much fitter to have handled a distaff than to wield a sceptre, and for the conversation of his concubines utterly neglected the most important affairs of state, Mr Killigrew went to pay his majesty a visit in his private apartments, habited like a pilgrim who was bent on a long journey.

The

Killigrew,
Killileagh.

The king, surprised at the oddity of his appearance, immediately asked him what was the meaning of it, and whither he was going? "To hell," bluntly replied the wag. "Prithee (said the king), what can your errand be to that place?" "To fetch back Oliver Cromwell (rejoined he), that he may take some care of the affairs of England, for his successor takes none at all."—One more story is related of him, which is not barren of humour. King Charles's fondness for pleasure, to which he almost always made business give way, used frequently to delay affairs of consequence, from his majesty's disappointing the council of his presence when met for the dispatch of business, which neglect gave great disgust and offence to many of those who were treated with this seeming disrespect. On one of these occasions the duke of Lauderdale, who was naturally impetuous and turbulent, quitted the council-chamber in a violent passion; and meeting Mr Killigrew presently after, expressed himself on the occasion in very disrespectful terms of his majesty. Killigrew begged his grace to moderate his passion, and offered to lay him a wager of 100l. that he himself would prevail on his majesty to come to council in half an hour. The duke, surprised at the boldness of the assertion, and warmed by his resentment against the king, accepted the wager; on which Killigrew immediately went to the king, and without ceremony told him what had happened; adding these words, "I know that your majesty hates Lauderdale, though the necessity of your affairs compels you to carry an outward appearance of civility: now, if you choose to get rid of a man who is thus disagreeable to you, you need only go this once to council; for I know his covetous disposition so perfectly, that I am well persuaded, rather than pay this 100l. he would hang himself out of the way, and never plague you more." The king was so pleased with the archness of this observation, that he immediately replied, "Well then, Killigrew, I positively will go;" and kept his word accordingly.—Killigrew died in 1682, and was buried in Westminster-abbey.

KILLIGREW (Anne), "a Grace for beauty, and a Muse for wit," as Mr Wood says, was the daughter of Dr Henry Killigrew, brother of the two foregoing, and was born a little before the restoration. She gave early indications of genius, and became eminent in the arts both of poetry and painting. She drew the duke of York and his duchess to whom she was maid of honour, as well as several other portraits and history-pieces; and crowned all her other accomplishments with unblemished virtue and exemplary piety. Mr Dryden seems quite lavish in her praise, though Wood assures us he has said no more of her than she was equal if not superior to. This amiable young woman died of the small-pox in 1685; and the year after her poems were published in a thin 4to volume.

KILLILEAGH, a town of Ireland, in the county of Down and province of Ulster, 80 miles from Dublin; otherwise written *Killyleagh*. It is the principal town in the barony of Duffrin; and seated on an arm of the lake of Strangford, from which it is supplied with a great variety of fish. The family of the Hamiltons created first Lords Clanbois, and afterwards Earls of Clanbrassil, had their seat and residence here in a castle standing at the upper end of the great street; at the lower end of the street is a little safe bay, where

ships lie sheltered from all winds; in the town are some good houses, a decent market house, a horse barrack, and a Presbyterian meeting-house. On an eminence a small distance from the town is a handsome church built in the form of a cross. This place suffered much in the calamitous year 1641. It is now thriving, and the linen manufacture carried on in it, and fine thread made, for which it has a great demand. It returns two members to parliament, patronage in the Blackwood family; and holds three fairs. The celebrated naturalist and eminent physician Sir Hans Sloan was born here 16th April 1660, and his father Alexander Sloan was at the head of that colony of Scots which King James I. settled in the place. This town was incorporated by that king at the instance of the first earl of Clanbois.

KILLOUGH (otherwise PORT ST ARNE), a port-town of Ireland, situated in the county of Down and province of Ulster, 76 miles from Dublin. It lies north of St John's Point, and has a good quay, where ships lie very safe. The town is agreeably situated; the sea flowing all along the banks of the houses, where ships ride in full view of the inhabitants. There is here a good church, and a horse-barrack. They have good fishing in the bay; but the principal trade of the place consists in the exportation of barley, and the importation of such commodities as are consumed in the adjacent country. A manufacture of salt is also carried on with great advantage. The fairs held here are five. At a small distance from the town is a charter working-school for the reception of 20 children, which was set on foot by the late Mr Justice Ward. There is a remarkable well here called *St Scordin's well*, and highly esteemed for the extraordinary lightness of its water. It gushes out of a high rocky bank, close upon the shore, and is observed never to diminish its quantity in the driest season. There is also a mineral spring near the school, the waters of which the inhabitants affirm to be both purgative and emetic. At a small distance from the town near the sea is a rock in which there is an oblong hole, from whence at the ebbing and flowing of the tide a strange noise is heard somewhat resembling the sound of a huntsman's horn. In an open field about a quarter of a mile from the town towards St John's point there is a very curious cave, which has a winding passage two feet and an half broad, with three doors in it besides the entrance, and leading to a circular chamber three yards in diameter, where there is a fine limpid well. The cave is about 27 yards long.

KILLOUGH-Harbour is tolerably safe and commodious; a small degree of caution, however, is necessary in sailing into it; for a rock stands in the middle of the entrance, covered at half flood, commonly called the *water-rock*. Either to the east or west of this rock is a secure passage, the inlet lying south by east and north by west. On the west side of the rock open to Coney-island is a strong quay, and a basin for ships, where they are defended from all winds, within which the harbour on both sides affords good anchorage for vessels of 150 tons. At the end of the quay the channel is 400 yards wide. The bay of Killough is formed by Rin-fad at the Long-point to the east, and St John's-point to the west, as the inner harbour is by a peninsula called *Coney-isle* from the number of rabbits thereon.

Killough.

Killybegs
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Kilmar-
nock.

thereon, and not *Cane-isle* as Sir William Petty has it. An impetuous sea runs on all this coast in storms and spring tides.

KILLYBEGS, a borough and fair town in the county of Donegal and province of Ulster, 123 miles from Dublin. It is situated on the north side of Donegal bay; but is a place of no great trade, though it has a harbour spacious enough to contain a large fleet: it has a bold and ample opening to the sea on the south, and is secured within by the shelter of high lands surrounding it; so that vessels may enter at any time of the tide, there being from 5 to 8 fathom water. The herring fishery is the most considerable of any carried on here; but the town is likely to increase in trade and consequence. It returns two members to parliament, patronage in the Conyngham family. It has two fairs.

KILMAINHAM, a town of Ireland, situated about half a mile from Dublin. It has a session-house and handsome gaol; and here the quarter sessions are held for the county of Dublin, and knights of the shire elected for that county. This place was sometimes the seat of government before Dublin castle was converted to that purpose; and though now much decayed, it gives title of baron to the family of Wenman. An ancient priory was founded here, and a house for knights hospitalers of St John of Jerusalem.

KILMALLOCK, a town of Ireland, in the county of Limerick and province of Munster, 16 miles from the city of Limerick, and 107 from Dublin.—This town makes a conspicuous figure in the military history of Ireland. In the 16th century it was a populous place; and the remains of the wall, which entirely surrounded the town, and of several large houses, are still to be seen. Edward VI. granted a charter to it with many privileges, as did Queen Elizabeth another, dated 24th April 1584. In 1598, it was invested by the Irish forces, when the earl of Ormond hastened to its relief, and arrived in time to raise the siege: here was also some contest during the grand rebellion in 1641 and 1642. By an inquisition 11 Aug. 29 Eliz. it appears that there had been an abbey in Kilmallock called *Flacispaghe*; on which a stone house was erected. In the cathedral church are the remains of a monument erected over the Verdon family, one of whom represented this town in parliament in 1613. Kilmallock returns two members to parliament; patron Silver Oliver, Esq. This place once gave title of viscount to one of the Sarsfield family. Sir James Ware informs us, that an abbey of Dominicans or black friars was built here in the 13th century by the sovereign, brethren, and commonalty. From the many ruins here of castles and ancient buildings, it has acquired the name of the *Irish Balbeck*. The parish church was formerly an abbey for regular canons founded by St Mochoallog, who died between the years 639 and 656; and some writers say, that the Dominican abbey just mentioned was founded in 1291, by Gilbert the second son of John of Calleen. Fairs are held at this town on Whitsun-Tuesday.

KILMARNOCK, a populous and flourishing town of Ayrshire in Scotland, noted for its manufacture of carpets, milled hosiery, and Scotch bonnets. It gave the title of earl to the noble family of Boyd, residing in this neighbourhood. This title was forfeited by

the late earl, who, by engaging in the rebellion of 1745, was deprived of his honours, and lost his life on the scaffold. His son, however, who served in the king's army, afterwards succeeded to the earldom of Errol, a title much more ancient and honourable.

KILMORE, a bishop's see in the county of Cavan and province of Ulster in Ireland. It was called in former ages *Clunes*, or *Clunis*, i. e. the "sequestered place;" and is situated near Loch Ern. St Fedlimid founded this bishopric in the sixth century; it was afterwards removed to an obscure village called *Triburna*; where it continued until the year 1454, when Andrew Mac Brady bishop of Triburna erected a church on the site of that founded by St Fedlimid, to whose memory it was dedicated, and denominated *Kilmore* or "the great church." At present there are neither cathedral, chapter, nor canons, belonging to this see; the small parish church contiguous to the episcopal house serving for the purpose of a cathedral.

KILN, a stove used in the manufacture of various articles. A fabric formed for admitting heat, in order to dry or burn materials placed in it to undergo such operations.

KILWORTH, a town of Ireland, situated in the county of Cork and province of Munster, 108 miles from Dublin. It is a thriving place, with a good church, at the foot of a large ridge of mountains called *Kilworth mountains*, through which a good turnpike road is carried from Dublin to Cork: below the town runs the river Funcheon, which is well stored with salmon and trout, and discharges itself a mile south of this into the Blackwater. Near Kilworth is a good glebe and vicarage house. At this place is Moorpark, the superb seat of Lord Mountcashel; and adjoining to his lordship's improvements stands the castle of Clough-leagh, boldly situated on the river Funcheon, which has stood several sieges. Six fairs are held here.

KIMBOLTON, a town of Huntingdonshire, seated in a bottom; and noted for the castle of Kimbolton, the seat of the duke of Manchester. W. Long. O. 15. N. Lat. 52. 18.

KIMCHI (David), a Jewish rabbi, famous as a commentator on the Old Testament, lived at the close of the 12th and beginning of the 13th centuries. He was a Spaniard by birth, son of rabbi Joseph Kimchi, and brother of rabbi Moses Kimchi, both men of eminent learning among the Jews: but he exceeded them both, being the best Hebrew grammarian the Jews ever had. He wrote a Grammar and Dictionary of that language; out of the former of which Buxtorf made his *Thesaurus linguae Hebraeae*, and his *Lexicon linguae Hebraeae* out of the latter. His writings have been held in such estimation among the Jews, that no one can arrive at any reputation in letters and theology without studying them.

KINCARDINESHIRE. See MEARNS.

KINDRED, in law, persons related to one another, whereof the law reckons three degrees or lines, viz. the descending, ascending, and collateral line. See CONSANGUINITY and DESCENT.

On there being no kindred in the descending line, the inheritance passes in the collateral one.

KING, a monarch or potentate who rules singly and sovereignly

Kilmore
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King.

King. sovereignly over a people.—Camden derives the word from the Saxon *cyning*, which signifies the same; and that from *can* "power," or *ken* "knowledge," where-with every monarch is supposed to be invested. The Latin *rex*, the Scythian *reix*, the Punic *resch*, the Spanish *rey*, and French *roy*, come all, according to Pottel, from the Hebrew *רֶשֶׁת*, *resch*, "chief, head."

Kings were not known amongst the Israelites till the reign of Saul. Before him they were governed at first by elders as in Egypt; then by princes of God's appointment, as Moses and Joshua; then by judges till the time of Samuel; and last of all by kings. See JUDGES.

Most of the Grecian states were governed at first by kings, who were chosen by the people to decide differences and execute a power which was limited by laws. They commanded armies, presided over the worship of the Gods, &c. This royalty was generally hereditary; but if the vices of the heir to the crown were odious to the people, or if the oracle had so commanded, he was cut off from the right of succession; yet the kings were supposed to hold their sovereignty by the appointment of Jupiter. The ensign of majesty was the sceptre, which was made of wood adorned with studs of gold, and ornamented at the top with some figure; commonly that of an eagle, as being the bird of Jove.

Rome also was governed at first by kings, who were elected by the people, with the approbation of the senate and concurrence of the augurs. Their power extended to religion, the revenues, the army, and the administration of justice. The monarchical form of government subsisted 244 years in Rome, under seven kings, the last of whom was Tarquinius Superbus. See ROME.

Among the Greeks the king of Persia had anciently the appellation of the *great king*; the king of France now has that of the *most Christian king*; and the king of Spain has that of *Catholic king*. The king of the Romans is a prince chosen by the emperor, as a coadjutor in the government of the empire.

The kings of England, by the Lateran council, under Pope Julius II. had the title of *Christianissimus* conferred on them; and that of *defender of the faith* was added by pope Leo X. though it had been used by them some time before. The title of *grace* was first given to our kings about the time of Henry IV. and that of *majesty* first to Henry VIII. before which time our kings were called *grace*, *highness*, &c.—In all public instruments and letters, the king styles himself *nos* "we;" though till the time of king John he spoke in the singular number.

The definition of *king* above given, is according to the general acceptance of the term. It will not therefore strictly apply to the sovereign of Britain; and still less of late to that of France, formerly one of the most absolute, now the most degraded, of princes, without power and without consequence. In Britain, a happy mean prevails. The power of the king is indeed subject to great limitations: but they are the limitations of wisdom, and the sources of dignity; being so far from diminishing his honour, that they add a glory to his crown: For while other kings are absolute monarchs over innumerable multitudes of slaves, the king of Britain has the distinguished glory of governing a free people, the least of whom

is protected by the laws: he has great prerogatives, and a boundless power in doing good; and is at the same time only restrained from acting inconsistently with his own happiness, and that of his people.

To understand the royal rights and authority in Britain, we must consider the king under six distinct views.

1. With regard to his title. 2. His royal family.
3. His councils. 4. His duties. 5. His prerogative.
6. His revenue.

I. His title. For this, see *HEREDITARY Right*, and *SUCCESSION*.

II. His royal family. See *ROYAL Family*.

III. His councils. See *COUNCIL*.

IV. His duties. By our constitution, there are certain duties incumbent on the king; in consideration of which, his dignity and prerogative are established by the laws of the land: it being a maxim in the law, that protection and subjection are reciprocal. And these reciprocal duties are what Sir William Blackstone apprehends were meant by the convention in 1688, when they declared that king James had broken the original contract between king and people. But however, as the terms of that original contract were in some measure disputed, being alleged to exist principally in theory, and to be only deducible by reason and the rules of natural law, in which deduction different understandings might very considerably differ; it was, after the revolution, judged proper to declare these duties expressly, and to reduce that contract to a plain certainty. So that, whatever doubts might be formerly raised by weak and scrupulous minds about the existence of such an original contract, they must now entirely cease; especially with regard to every prince who hath reigned since the year 1688.

The principal duty of the king is, To govern his people according to law. *Nec regibus infinita aut libera potestas*, was the constitution of our German ancestors on the continent. And this is not only consonant to the principles of nature, of liberty, of reason, and of society; but has always been esteemed an express part of the common law of England, even when prerogative was at the highest. "The king (saith Bracton, who wrote under Henry III.) ought not to be subject to man; but to God, and to the law: for the law maketh the king. Let the king therefore render to the law, what the law has invested in him with regard to others; dominion, and power: for he is not truly king, where will and pleasure rules, and not the law." And again: "The king hath a superior, namely God; and also the law, by which he was made a king." Thus Bracton; and Fortescue also, having first well distinguished between a monarchy absolutely and despotically regal, which is introduced by conquest and violence, and a political or civil monarchy, which arises from mutual consent (of which last species he asserts the government of England to be), immediately lays it down as a principle, that "the king of England must rule his people according to the decrees of the laws thereof; inasmuch that he is bound by an oath at his coronation to the observance and keeping of his own laws." But to obviate all doubts and difficulties concerning this matter, it is expressly declared by statute 12 and 13 W. III. c. 2. "that the laws of England are the birthright of the people thereof; and all the kings and queens who shall ascend the throne of this

King.

King.

this realm ought to administer the government of the same according to the said laws, and all their officers and ministers ought to serve them respectively according to the same: and therefore all the other laws and statutes of this realm, for securing the established religion, and the rights and liberties of the people thereof, and all other laws and statutes of the same now in force, are by his majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, and by authority of the same, ratified and confirmed accordingly."

And as to the terms of the original contract between king and people, these, it is apprehended, are now couched in the coronation-oath, which by the statute 1 W. & M. ft. 1. c. 6. is to be administered to every king and queen who shall succeed to the imperial crown of these realms, by one of the archbishops or bishops of the realm, in the presence of all the people; who on their parts do reciprocally take the oath of allegiance to the crown. This coronation-oath is conceived in the following terms:

"*The archbishop or bishop shall say, Will you solemnly promise and swear to govern the people of this kingdom of Britain, and the dominions thereto belonging, according to the statutes in parliament agreed, and the laws and customs of the same?—The king or queen shall say, I solemnly promise so to do.*

"*Archbishop or bishop. Will you to your power cause law and justice, in mercy, to be executed in all your judgments?—King or queen. I will.*

"*Archbishop or bishop. Will you to the utmost of your power maintain the laws of God, the true profession of the gospel, and the Protestant reformed religion established by the law? And will you preserve unto the bishops and clergy of this realm, and to the churches committed to their charge, all such rights and privileges as by law do or shall appertain unto them, or any of them?—King or queen. All this I promise to do.*

"*After this the king or queen, laying his or her hand upon the holy gospel, shall say, The things which I have here before promised, I will perform and keep: so help me God. And then shall kiss the book.*"

This is the form of the coronation-oath, as it is now prescribed by our laws; the principal articles of which appear to be at least as ancient as the Mirror of Justices, and even as the time of Bracton: but the wording of it was changed at the revolution, because (as the statute alleges) the oath itself had been framed in doubtful words and expressions, with relation to ancient laws and constitutions at this time unknown. However, in what form soever it be conceived, this is most indisputably a fundamental and original express contract; though, doubtless, the duty of protection is impliedly as much incumbent on the sovereign before coronation as after: in the same manner as allegiance to the king becomes the duty of the subject immediately on the descent of the crown, before he has taken the oath of allegiance, or whether he ever takes it at all. This reciprocal duty of the subject will be considered in its proper place. At present we are only to observe, that in the king's part of this original contract are expressed all the duties which a monarch can owe to his people, viz. to govern according to

N^o 172.

King.

law; to execute judgment in mercy; and to maintain the established religion. And with respect to the latter of these three branches, we may farther remark, that by the act of union, 5 Ann. c. 8. two preceding statutes are recited and confirmed; the one of the parliament of Scotland, the other of the parliament of England: which enact; the former, that every king at his accession shall take and subscribe an oath, to preserve the Protestant religion, and presbyterian church-government in Scotland; the latter, that at his coronation he shall take and subscribe a similar oath, to preserve the settlement of the church of England within England, Ireland, Wales, and Berwick, and the territories thereunto belonging.

V. His prerogative. See PREROGATIVE.

VI. His revenue. See REVENUE.

Having in the preceding articles chalked out all the principal outlines of this vast title of the law, the supreme executive magistrate, or the king's majesty, considered in his several capacities and points of view; it may not be improper to take a short comparative review of the power of the executive magistrate, or prerogative of the crown, as it stood in former days, and as it stands at present. And we cannot but observe, that most of the laws for ascertaining, limiting, and restraining this prerogative, have been made within the compass of little more than a century past; from the petition of right in 3 Car. I. to the present time. So that the powers of the crown are now to all appearance greatly curtailed and diminished since the reign of king James I. particularly by the abolition of the star-chamber and high-commission courts in the reign of Charles I. and by the disclaiming of martial law, and the power of levying taxes on the subject, by the same prince: by the disuse of forest-laws for a century past: and by the many excellent provisions enacted under Charles II.; especially the abolition of military tenures, purveyance, and pre-emption; the *habeas corpus* act; and the act to prevent the discontinuance of parliaments for above three years; and since the revolution, by the strong and emphatical words in which our liberties are asserted in the bill of rights, and act of settlement; by the act for triennial, since turned into septennial elections; by the exclusion of certain officers from the house of commons; by rendering the seats of the judges permanent, and their salaries independent; and by restraining the king's pardon from obstructing parliamentary impeachments. Besides all this, if we consider how the crown is impoverished and stripped of all its ancient revenues, so that it greatly depends on the liberality of parliament for its necessary support and maintenance, we may perhaps be led to think that the balance is inclined pretty strongly to the popular scale, and that the executive magistrate has neither independence nor power enough left, to form that check upon the lords and commons which the founders of our constitution intended.

But, on the other hand, it is to be considered, that every prince, in the first parliament after his accession, has by long usage a truly royal addition to his hereditary revenue settled upon him for his life; and has never any occasion to apply to parliament for supplies, but upon some public necessity of the whole realm. This restores to him that constitutional independence, which at his first accession seems, it must be owned, to be

King. be wanting. And then with regard to power, we may find perhaps that the hands of government are at least sufficiently strengthened; and that a British monarch is now in no danger of being overborne by either the nobility or the people. The instruments of power are not perhaps so open and avowed as they formerly were, and therefore are the less liable to jealous and invidious reflections; but they are not the weaker upon that account. In short, our national debt and taxes (besides the inconveniences before mentioned), have also in their natural consequences thrown such a weight of power into the executive scale of government, as we cannot think was intended by our patriot ancestors; who gloriously struggled for the abolition of the then formidable parts of the prerogative, and by an unaccountable want of foresight established this system in their stead. The entire collection and management of so vast a revenue, being placed in the hands of the crown, have given rise to such a number of new officers, created by and removeable at the royal pleasure, that they have extended the influence of government to every corner of the nation. Witness the commissioners, and the multitude of dependents on the customs, in every port of the kingdom; the commissioners of excise, and their numerous subalterns, in every inland district; the post masters and their servants, planted in every town, and upon every public road; the commissioners of the stamps, and their distributors, which are fully as scattered and fully as numerous; the officers of the salt-duty, which, though a species of excise, and conducted in the same manner, are yet made a distinct corps from the ordinary managers of that revenue; the surveyors of houses and windows; the receivers of the land-tax; the managers of lotteries; and the commissioners of hackney-coaches; all which are either mediately or immediately appointed by the crown, and removable at pleasure without any reason assigned: these, it requires but little penetration to see, must give that power, on which they depend for subsistence, an influence most amazingly extensive. To this may be added the frequent opportunities of conferring particular obligations, by preference in loans, subscriptions, tickets, remittances, and other money-transactions, which will greatly increase this influence; and that over those persons whose attachment, on account of their wealth, is frequently the most desirable. All this is the natural, though perhaps the unforeseen, consequence of erecting our funds of credit, and, to support them, establishing our perpetual taxes: the whole of which is entirely new since the restoration in 1660; and by far the greatest part since the revolution in 1688. And the same may be said with regard to the officers in our numerous army, and, the places which the army has created. All which put together give the executive power so persuasive an energy with respect to the persons themselves, and so prevailing an interest with their friends and families, as will amply make amends for the loss of external prerogative.

But though this profusion of offices should have no effect on individuals, there is still another newly acquired branch of power; and that is, not the influence only, but the force of a disciplined army: paid indeed ultimately by the people, but immediately by the crown; raised by the crown, officered by the

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crown, commanded by the crown. They are kept on foot, it is true, only from year to year, and that by the power of parliament; but during that year, they must by the nature of our constitution, if raised at all, be at the absolute disposal of the crown. And there need but few words to demonstrate how great a trust is thereby reposed in the prince by his people: A trust that is more than equivalent to a thousand little troublesome prerogatives.

Add to all this, that besides the civil list, the immense revenue of almost seven millions sterling, which is annually paid to the creditors of the public, or carried to the sinking fund, is first deposited in the royal exchequer, and thence issued out to the respective offices of payment. This revenue the people can never refuse to raise, because it is made perpetual by act of parliament; which also, when well considered, will appear to be a trust of great delicacy and high importance.

Upon the whole, therefore, it seems clear, that whatever may have become of the *nominal*, the real power of the crown has not been too far weakened by any transactions in the last century. Much is indeed given up; but much is also acquired. The stern commands of prerogative have yielded to the milder voice of influence; the slavish and exploded doctrine of non-resistance has given way to a military establishment by law; and to the disuse of parliaments has succeeded a parliamentary trust of an immense perpetual revenue. When, indeed, by the free operation of the sinking fund, our national debts shall be lessened; when the posture of foreign affairs, and the universal introduction of a well planned and national militia, will suffer our formidable army to be thinned and regulated; and when (in consequence of all) our taxes shall be gradually reduced; this adventitious power of the crown will slowly and imperceptibly diminish, as it slowly and imperceptibly rose. But till that shall happen, it will be our especial duty, as good subjects and good Englishmen, to reverence the crown, and yet guard against corrupt and servile influences from those who are intrusted with its authority; to be loyal, yet free; obedient, and yet independent; and above every thing, to hope that we may long, very long, continue to be governed by a sovereign, who, in all those public acts that have personally proceeded from himself, hath manifested the highest veneration for the free constitution of Britain; hath already in more than one instance remarkably strengthened its outworks; and will therefore never harbour a thought, or adopt a persuasion, in any the remotest degree detrimental to public liberty.

KING at Arms, or of *Arms*, is an officer of great antiquity, and anciently of great authority, whose business is to direct the heralds, preside at their chapters, and have the jurisdiction of armoury.

In England there are three kings of arms, viz. garter, clarencieux, and norroy.

Garter, principal *KING at Arms*, was instituted by Henry V. His business is to attend the knights of the garter at their assemblies, to marshal the solemnities at the funerals of the highest nobility, and to carry the garter to kings and princes beyond the sea; on which occasion he used to be joined in commission with some principal peer of the kingdom. See *GARTER*.

King.

Clarencieux KING at Arms, is so called from the duke of Clarence, to whom he first belonged. His office is to marshal and dispose the funerals of all the inferior nobility, as baronets, knights, esquires, and gentlemen, on the south side of the Trent. See CLARENCIEUX.

Norroy KING at Arms, is to do the same on the north side of the river Trent.

These two last are also called *provincial heralds*, in regard they divide the kingdom between them into provinces. By charter, they have power to visit noblemen's families, to set down their pedigrees, distinguish their arms, appoint persons their arms, and with garter to direct the other heralds.

Anciently the kings at arms were created and solemnly crowned by the kings of England themselves; but of later days, the earl marshal has a special commission at every creation to personate the king.

Lyon KING at Arms, for Scotland, is the second king at arms for Great Britain; he is invested and crowned with great solemnity. To him belongs the publishing king's proclamations, marshalling funerals, reversing arms, &c. See LYON.

KING (Dr John), a learned English bishop in the 17th century, bred at Westminster-school, and afterward at Christ church Oxford. He was appointed chaplain to queen Elizabeth. In 1605 he was made dean of Christ church, and was for several years vice-chancellor of Oxford. In 1611 he was advanced to the bishopric of London. Besides his *Lectures upon Jonah*, delivered at York, he published several sermons. King James I. used to style him *the king of preachers*; and lord chief justice Coke often declared, that *he was the best speaker in the star-chamber in his time*. He was so constant in preaching after he was a bishop, that, unless he was hindered by want of health, he omitted no Sunday whereon he did not visit some pulpit in London or near it. Soon after his death, the Papists reported, that he died a member of their church. But the falsity of this story was sufficiently exposed by his son Mr Henry King, in a sermon at St Paul's cross soon after; by bishop Godwin in the *Appendix to his Commentarius de presulibus Angliae*, printed in 1622; and by Mr John Gee, in his book, intitled, *The foot out of the snare*.

KING (Dr Henry), bishop of Chichester, eldest son of the former, was born in 1591, and educated at Oxford. He became an eminent preacher, and chaplain to king James I. and Charles I. In 1638 he was made dean of Rochester; and in 1641 was advanced to the see of Chichester. Upon the breaking out of the civil wars, and the dissolution of episcopacy, he was treated with great severity by the friends to the parliament; but recovered his bishopric at the restoration. This worthy prelate, who had a most amiable character, died in 1669; and was interred at his cathedral of Chichester, where a monument was erected to his memory. He published, 1. The psalms of David turned into metre. 2. Poems, elegies, paradoxes, and sonnets. 3. Several sermons, and other works.

KING (Dr William), a facetious English writer in the beginning of the 18th century, was well descended, being allied to the noble families of Clarendon and Rochester. He was elected a student of Christ church from Westminster-school in 1681, aged 18. He af-

terward entered upon the law line, and took the degree of doctor of civil law. He soon acquired a considerable reputation as a civilian, and was in great practice. He attended the earl of Pembroke, lord lieutenant of Ireland, into that kingdom, where he was appointed judge-advocate, sole commissioner of the prizes, keeper of the records, vicar-general to the lord primate of Ireland; was countenanced by persons of the highest rank, and might have made a fortune. But so far was he from heaping up riches, that he returned to England with no other treasure than a few merry poems and humorous essays, and retired to his students place at Christ church. He died on Christmas-day in 1712, and was interred in the Cloisters of Westminster-abbey. His writings are pretty numerous. The principal are, 1. *Animadversions on a pretended account of Denmark*, wrote by Mr Moleworth, afterwards lord Moleworth. The writing of these procured Dr King the place of secretary to princess Anne of Denmark. 2. *Dialogues of the dead*. 3. *The art of love*, in imitation of Ovid *De arte amandi*. 4. A volume of poems. 5. *Useful transactions*. 6. An historical account of the heathen gods and heroes. 7. Several translations.—As to the character of Dr King, he naturally hated business, especially that of an advocate; but made an excellent judge when appointed one of the court of delegates. His chief pleasure consisted in trifles; and he was never happier than when he thought he was hid from the world. Yet he loved company, provided they were such as tallied with his humour. He would say a great many ill-natured things, but never do one. He was made up of tenderness and pity, and tears would fall from him on the smallest occasion. His education had been strict, and he was naturally of a religious disposition.

KING (Dr William), archbishop of Dublin in the 18th century, was descended from an ancient family in the north of Scotland, but born in the county of Antrim in the north of Ireland. In 1674 he went into priests orders. In 1679 he was promoted by his patron, Dr Parker, archbishop of Dublin, to the chancellorship of St Patrick. In 1687 Peter Manby, dean of Londonderry, having published at London, in 4to, a pamphlet intitled *Considerations which obliged Peter Manby dean of Londonderry to embrace the Catholic religion*, our author immediately wrote an answer. Mr Manby, encouraged by the court, and assisted by the most learned champions of the church of Rome, published a reply under this title, *A reformed catechism, in two dialogues concerning the English reformation, &c. in reply to Mr King's answer, &c.* Our author soon rejoined in *A vindication of the answer*. Mr Manby dropped the controversy; but dispersed a loose sheet of paper, artfully written, with this title, *A letter to a friend, showing the vanity of this opinion, that every man's sense and reason are to guide him in matters of faith*. This Dr King refuted in *A vindication of the Christian religion and reformation, against the attempts of a letter, &c.* In 1689 he was twice confined in the tower by order of king James II. and the same year commenced doctor of divinity. In 1690, upon king James's retreat to France after the battle at the Boyne, he was advanced to the see of Derry. In 1692 he published at London in 4to, *The state of the Protestants of Ireland under the late king James's government, &c.*

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King. "A history (says bishop Burnet), as truly as it is finely written." He had by him at his death attested vouchers of every particular fact alleged in this book, which are now in the hands of his relations. However, it was soon attacked by Mr Charles Lessly. In 1693 our author finding the great number of Protestant dissenters, in his diocese of Derry, increased by a vast addition of colonies from Scotland, in order to persuade them to conformity to the established church, published *A discourse concerning the inventions of men in the worship of God*. Mr Joseph Boyse, a dissenting minister, wrote an answer. The bishop answered Mr Boyse. The latter replied. The bishop rejoined. In 1702 he published at Dublin, in 4to, his celebrated treatise *De origine mali*. Mr Edmund Law, M. A. fellow of Christ's college in Cambridge, afterward published a complete translation of this, with very valuable notes, in 4to. In the second edition he has inserted, by way of notes, a large collection of the author's papers on the same subject, which he had received from his relations after the publication of the former edition. Our author in this excellent treatise has many curious observations. He asserts and proves that there is more moral good in the earth than moral evil. A sermon by our author, preached at Dublin in 1709, was published under the title of *Divine predestination and foreknowledge consistent with the freedom of man's will*. This was attacked by Anthony Collins, Esq; in a pamphlet intitled, "*A vindication of the divine attributes; in some remarks on the archbishop of Dublin's sermon intitled, Divine predestination, &c.*" He published likewise, *A discourse concerning the consecration of churches; showing what is meant by dedicating them, with the grounds of that office*. He died in 1720.

KING (Dr William), late principal of St Mary's hall, Oxford, son of the reverend Peregrine King, was born at Stepney in Middlesex, in the year 1685. He was made doctor of laws in 1715, was secretary to the duke of Ormond, and earl of Arran, as chancellors of the university; and was made principal of St Mary's hall on the death of Dr Hudson in 1719. When he stood candidate for member of parliament for the university, he resigned his office of secretary, but enjoyed his other preferment, and it was all he did enjoy to the time of his death. Dr Clark, who opposed him, carried the election; and after this disappointment, he in the year 1727 went over to Ireland, where he is said to have written an epic poem, called *The Toast*, which was a political satire, printed and given away to his friends, but never sold. On the dedication of Dr Radcliff's library in 1749, he spoke a Latin oration in the theatre at Oxford, which was received with the highest acclamations; but it was otherwise when printed, he being attacked in several pamphlets on account of it. Again, at the memorable contested election in Oxfordshire 1755, his attachment to the old interest drew on him the resentment of the new, and he was libelled in newspapers and pamphlets, against which he defended himself in an *Apology*, and warmly retaliated on his adversaries. He wrote several other things, and died in 1762. He was a polite scholar, an excellent orator, an elegant and easy writer, and esteemed by the first men of his time for his learning and wit.

KING (Peter), lord high chancellor of Great Britain, was descended of a good family of that name in Somersetshire, and son to an eminent grocer and salter in the city of Exeter in Devonshire. He was born at Exeter in 1669, and bred up for some years to his father's business; but his inclination to learning was so strong, that he laid out all the money he could spare in books, and devoted every moment of his leisure hours to study: so that he became an excellent scholar before the world suspected any such thing; and gave the public a proof of his skill in church history, in his *Inquiry into the constitution, discipline, unity, and worship, of the primitive church, that flourished within the first 300 years after Christ*, London, 1691, in 8vo. This was written with a view to promote the scheme of a comprehension of the dissenters. He afterwards published the second part of the *Inquiry into the constitution, &c.*; and having desired, in his preface, to be shown, either publicly or privately, any mistakes he might have made, that request was first complied with by Mr Edmund Elys; between whom and our author there passed several letters upon the subject, in 1692, which were published by Mr Elys in 1694, 8vo, under the title of *Letters on several subjects*. But the most formal and elaborate answer to the *Inquiry* appeared afterwards, in a work intitled, *Original draught of the primitive church*.

His acquaintance with Mr Locke, to whom he was related, and who left him half his library at his death, was of great advantage to him: by his advice, after he had studied some time in Holland, he applied himself to the study of the law; in which profession his learning and diligence made him soon taken notice of. In the two last parliaments during the reign of King William, and in five parliaments during the reign of Queen Anne, he served as burgess for Beer-Alston in Devonshire. In 1702, he published at London, in 8vo, without his name, his *History of the apostle's creed*, with critical observations on its several articles; which is highly esteemed. In 1708, he was chosen recorder of the city of London; and in 1710, was one of the members of the house of commons at the trial of Dr Sacheverell. In 1714, he was appointed lord chief justice of the common-pleas; and the April following, was made one of the privy-council. In 1715, he was created a peer, by the title of *Lord King, baron of Ockham in Surry*, and appointed lord high chancellor of Great Britain; in which post he continued till 1733, when he resigned; and in 1734 died at Ockham in Surry.

KING's Bench. See **BENCH** (*King's*).

KING-Bird. See **PARADISEA**.

KING's Fisher. See **ALCEDO**.

Books of KINGS, two canonical books of the Old Testament, so called, because they contain the history of the kings of Israel and Judah from the beginning of the reign of Solomon down to the Babylonish captivity, for the space of near 600 years. The first book of kings contains the latter part of the life of David, and his death; the flourishing state of the Israelites under Solomon, his building and dedicating the temple of Jerusalem, his shameful defection from the true religion, and the sudden decay of the Jewish nation after his death, when it was divided into two kingdoms: the rest of the book is taken up in relating the acts of

King,
Kingdoms.

four kings of Judah and eight of Israel. The second book, which is a continuation of the same history, is a relation of the memorable acts of 16 kings of Judah, and 12 of Israel, and the end of both kingdoms, by the carrying of the 10 tribes captive into Assyria by Salmanassar, and the other two into Babylon by Nebuchadnezzar.

It is probable that these books were composed by Ezra, who extracted them out of the public records, which were kept of what passed in that nation.

KING'S-COUNTY, a county of the province of Leinster in Ireland, taking its name from king Philip of Spain, husband to queen Mary. It is bounded on the north by West Meath; on the south by Tipperary and Queen's-county, from which it is divided by the Barrow; and part of Tipperary and Galway on the west, from which it is separated by the Shannon. It is a fine fruitful country, containing 257,510 Irish plantation acres, 56 parishes, 11 baronies, and two boroughs, and returns six members to parliament. It is about 47 miles long and 17 broad, and the chief town is Philipstown.

KING'S Evil, or Scrophula. See *MEDICINE-Index*.

KING-TE-TCHING, a famous village belonging to the district of Jao-tcheou-fou, a city of China in the province of Kiang-si. This village, in which are collected the best workmen in porcelain, is as populous as the largest cities of China. It is reckoned to contain a million of inhabitants, who consume every day more than ten thousand loads of rice. It extends a league and a half along the banks of a beautiful river, and is not a collection of straggling houses intermixed with spots of ground; on the contrary, the people complain that the buildings are too crowded, and that the long streets which they form are too narrow; those who pass through them imagine themselves transported into the midst of a fair, where nothing is heard around but the noise of porters calling out to make way. Provisions are dear here, because every thing consumed is brought from remote places; even wood, so necessary for their furnaces, is actually transported from the distance of an hundred leagues. This village, notwithstanding the high price of provisions, is an asylum for a great number of poor families, who could not subsist any where else. Children and invalids find employment here, and even the blind gain a livelihood by pounding colours. The river in this place forms a kind of harbour about a league in circumference: two or three rows of barks placed in a line sometimes border the whole extent of this vast basin.

KINGDOM, the territories or extent of country subject to a king.

KINGDOMS, in natural history. Most naturalists and chemists divide all natural bodies into three great classes, which they call *kingdoms*. These are the *mineral*, the *vegetable*, and the *animal kingdoms*.

This great and first division is founded on this consideration, that any plant or vegetable which is produced, which grows, which is organized, which contains a seed, and which produces its like, seems to be a being very distinct and different from a stone or a metal, in which we at most observe only a regular arrangement of parts, but not a true organization, and which contains no seed by which it is capable of reproduction; and another foundation of this division is, that an

animal differs no less from a simple plant, by sensation, by the use of its senses, and by the power of voluntary motion which it possesses, while these qualities do not belong to any thing which is merely vegetable.

But notwithstanding these so distinctive marks, philosophers pretend, that this division of natural bodies into classes is only ideal. They affirm, that, by observing nature attentively, we may perceive, that all her productions are connected together by an uninterrupted chain; and that by surveying the several beings, we must be convinced, that any one being differs very little from some other two between which it seems to be placed; so that we may descend from the most perfect animal to the rudest mineral by insensible degrees, and without finding any interval from which a division might be made. The opinions of naturalists are therefore divided upon this subject; and each opinion seems to be founded upon observations, analogies, and reasonings more or less conclusive.

If we avoid investigating extremes, however, the distinctive marks must be acknowledged sufficiently obvious to justify the triple division above mentioned, and to discriminate the individuals of each.

For a general view of the operations or conduct of nature in those her three kingdoms, see the article *NATURE*. For a particular consideration of them—(in the animal-kingdom), see *ZOOLOGY*, *ANIMAL*, *BRUTE*, *BIRD*, *ORNITHOLOGY*, *INSECT*, *ENTOMOLOGY*, *ICHTHYOLOGY*, *FISH*, *COMPARATIVE Anatomy*, and the different animals under their respective names;—(in the vegetable kingdom), *BOTANY*, *PLANT*, *AGRICULTURE*, *VEGETATION*, *DEFOLIATION*, *FRONDESCENTIA*, *GEMMATIO*, *FRUIT*, *LEAF*, *GERMINATION*, &c. and the different plants under their respective names;—(in the mineral kingdom), *MINERALOGY*, *METALLURGY*, and the different stones and metals under their respective names.

In what remains of this article we shall consider natural bodies only in a chemical view; that is to say, relatively to the several principles which we obtain in the analysis of those bodies. In the decomposition of all beings truly living, organized, and containing within themselves a seed by which they may be reproduced, such as vegetables and animals, we always obtain an inflammable, fat, or oily substance; and on the contrary, we do not find the smallest trace of this principle in any substance purely mineral, not even in sulphur, which is the most inflammable of all these substances. On the other side, if we carefully examine and compare with each other the analogous principles obtained from the three kingdoms; such as the saline substances obtained in the analysis of animals, vegetables, and minerals; we shall easily perceive, that all the saline matter which comes from the vegetable or animal kingdoms is altered by oil, while all the saline matter which comes from the mineral kingdom is entirely free from oil.

We ought to observe here, that because any matter is found in one or more individuals of any kingdom, we must not therefore conclude, that it belongs to the kingdom of such individuals; for we may be convinced, from a slight observation of nature, that by a thousand combinations, and particular circumstances, substances of quite different classes or kingdoms are daily found mixed and confounded together. Thus, for example, within

Kingdoms.

Kingdoms. within the earth, and even at great depths, that is, in the region appropriated to minerals, sometimes substances are found evidently oily, such as all bitumens: but we at the same time can prove, and all the observations of natural history prove, that these oily substances are only accidentally within the earth, and that they proceed from the vegetable or animal bodies which have been buried in the earth by some of those great revolutions which have happened from time to time upon the surface of our globe. Also in decomposing several vegetables and animals, salts are obtained; such as common salt, Glauber's salt, and others, which contain nothing oily, and which are consequently matters evidently mineral. But, on the other side, we are certain that these mineral salts are extraneous to the animals and vegetables in which they are found; that they are only introduced into these living bodies, because they happen to be mixed with the matters which have been applied to them as aliments, and that they ought not to be numbered amongst their principles. The proof of this is, that not only the quantity of these mineral salts is not uniform in animals and vegetables; but also, that not a particle of such salts is contained in some plants and animals equally strong and healthy, and of the same species as those in which these salts have generally been observed.

In the second place, we observe, that oils do only exist in the proximate principles of vegetables and animals; that is, in those of their principles which enter immediately into their composition, when those principles have not been altered by further decompositions, and consequently when they still preserve their animal or vegetable character; for by a natural putrefaction continued during a long time, or by chemical operations, not only the materials of which animal and vegetable bodies are formed may be deprived entirely of oil, but also this oil may itself be entirely destroyed or decomposed. These substances in that state contain nothing by which they can be distinguished from minerals. The earths, for example, of vegetables and animals, when they are deprived, by a sufficient calcination of all inflammable matter, have been thought to become entirely similar to the calcareous and argillaceous earths found within the globe, and which may be considered as mineral substances, although probably they have been formerly a part of animal and vegetable bodies. See BONES.

Hence we conclude, that, when we consider natural bodies in a chemical view, we ought to divide them into two great classes. The first class is of substances inanimate, unorganised; and the principles of which have a degree of simplicity which is essential to them: these are minerals. The other class contains all those bodies which not only have been distinctly organised, but which also contain an oily matter, which is nowhere to be found in substances which have not made part of animate bodies, and which, by combining with all the other principles of these animate bodies, distinguishes these principles from those of minerals by a less degree of simplicity. This second class contains vegetables and animals. We ought also to remark, that the oil contained in vegetable and animal substances, renders them susceptible of fermentation, properly so called, which cannot by any means take place in any mineral.

We shall now proceed to examine, if, by comparing the principles obtained in the decomposition of vegetables with those obtained in the decomposition of animals, we can find some essential character by which these two kingdoms may be chemically distinguished, in the same manner as we have seen that both of them may be distinguished from minerals. From experiments we indeed learn, that the principles of vegetables differ evidently enough from those of animals; that in general the saline principles of the former are acid, and are transformable in great measure into fixed alkali by incineration, while the principle of the latter are volatile alkalis, or easily changeable into these; that vegetables are much farther removed from putrefaction than animals; lastly, that oils truly animal have a character different from vegetable oils, and are in general more attenuated, or at least more disposed to be attenuated and volatilised. But we must at the same time confess, that these differences are not clear and decisive, like those betwixt these two kingdoms and the mineral kingdom; for we do not find any essential principle, either in animals or in vegetables, which is not also to be found in the other. In some plants, chiefly the cruciform, as much volatile alkali, as little fixed alkali, and as much disposition to putrify, are found as in animal-matters; and thence we conclude, that if these two great classes of natural bodies differ chemically from each other, this difference proceeds only from the quantities or proportions of their several principles and properties, and not from any thing distinct and peculiar; nor is it similar to the manner in which both vegetable and animal substances differ from minerals, namely, by containing an oil, and possessing a fermentable quality. Besides, the degrees of the chemical differences betwixt these three great classes of natural bodies are found to be the same, in whatever manner we consider them or compare them together. See CHEMISTRY, *passim*.

KINGHORN, a parliament town in the county of Fife in Scotland, on the Frith of Forth, directly opposite to Leith. Here is a manufacture of thread-sockings knit by the women; the men, being chiefly mariners, are employed in coasting ships, in the fishery, or the passage-boats from hence to Leith, from which the town of Kinghorn derives considerable advantage. This place gives a second title to the earl of Strathmore.

KINGSBRIDGE, a town of Devonshire, 217 miles from London. It is a pretty place, with a harbour for boats, a free school, a market, and a fair. This is a chapel of ease to Cheston, and has a bridge over the Salcomb to Dodbrook.

KINGSCLERE, a pleasant town of Hampshire, situated on the Oxford road from Basingstoke. It is 56 miles from London, and was once the seat of the Saxon kings. It has a market and two fairs.

KINGSFERRY, in Kent, the common way from the main land into the isle of Shepey; where a cable of about 140 fathom in length, fastened at each end across the water, serves to get the boat over by hand. For the maintenance of this ferry and keeping up the highway leading to it through the marshes for above one mile in length, and for supporting a wall against the sea, the land-occupiers tax themselves yearly one penny *per* acre for fresh marsh-land, and one penny for every

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Kingsferry.

Kingston. every 10 acres of salt marsh-land. Here is a house for the ferry-keeper, who is obliged to tow all travellers over free, except on these four days, viz. Palm-Monday, Whit-Monday, St James's-day, and Michaelmas-day, when a horseman pays two-pence and a footman one penny. But on Sunday, or after eight o'clock at night, the ferry-keeper demands six-pence of every horseman, and two-pence of every footman, whether strangers or the land-occupiers.

KINGSTON UPON THAMES, a town of Surry in England, situated 13 miles from London. It takes its name from having been the residence of many of our Saxon kings, some of whom were crowned here on a stage in the market-place. It has a wooden bridge of 20 arches over the Thames, which is navigable here by barges. There is another bridge here of brick, over a stream that comes from a spring in a cellar four miles above the town, and forms such a brook as to drive two mills not above a bow-shot from it and from each other. It is generally the place for the summer-assizes of this county, there being a gallows on the top of the hill that overlooks it. It is a populous, trading, well-built town, and in the reigns of King Edward II. and III. sent members to parliament. It has a free-school; an alms-house built in 1670 for six men and six women, and endowed with lands to the value of 80*l.* a year; and a charity school for 30 boys, who are all clothed. Here is a spacious church with eight bells, adjoining to which, on the north side, was formerly a chapel dedicated to St Mary, in which were the pictures of three of the Saxon kings that were crowned here, and also that of King John, who gave the inhabitants of this town their first charter of incorporation. But these were all destroyed by the fall of this chapel in 1730. Here is a good market for corn, &c. and three fairs.

KINGSTON upon Hull, a town in the east riding of Yorkshire, 173 miles from London. Its common name is simply *Hull*. It is situated at the conflux of the rivers Hull and Humber, and near the place where the latter opens into the German Ocean. It lies so low, that by cutting the banks of the Humber the country may be laid under water for five miles round. Towards the land it is defended by a wall and a ditch, with the farther fortification of a castle, a citadel, and a block-house. A dock was begun here, but after great expence left unfinished.—A new cut has been lately made to Hull by Weighton. The town is large and populous, containing two churches, several meeting-houses, a free-school, a charity-school, and some hospitals. Among the latter is one called *Trinity-house*, in which are maintained many distressed seamen, both of Hull and other places, that are members of its port. It is governed by 12 elder brethren and six assistants; out of the former are chosen annually two wardens, and out of the younger brethren two stewards; they determine questions between masters and seamen, and other sea matters. A handsome infirmary has lately been erected without the town to the north. Here are also an exchange and a custom-house, and over the Hull a stone bridge consisting of 14 arches. A good harbour was made here by Richard II. This town has not only the most considerable inland traffic of any port in the north of England, but a foreign trade superior to any in the kingdom, excepting the

ports of London, Bristol, Liverpool, and Yarmouth. *Kingston.* By means of the many large rivers that fall into the Humber, it trades to almost every part of Yorkshire, as well as to Lincolnshire, Nottinghamshire, Staffordshire, Derbyshire, and Cheshire; the commodities of which counties are brought hither, and exported to Holland, Hamburg, France, Spain, the Baltic, and other parts of Europe. In return for those, are imported iron, copper, hemp, flax, canvas, Russia linen and yarn, besides wine, oil, fruit, and other articles. Such quantities of corn are also brought hither by the navigable rivers, that Hull exports more of this commodity than London. The trade of Hull with London, particularly for corn, lead, and butter, and with Holland and France, in times of peace, for those commodities, as well as for cloth, kerseys, and other manufactures of Yorkshire, is so considerable as to employ not only single vessels, but fleets; the Hull fleets to London being generally from 50 to 60 sail, and in time of war frequently 100 sail or upwards. The mayor of Hull has two swords, one given by King Richard II. the other by Henry VIII. but only one is borne before him at a time; also a cap of maintenance, and an oar of lignum vitæ as a badge of his admiralty jurisdiction within the limits of the Humber. This town gave title of earl to Robert Pierpoint of Holme Pierpoint, viscount Newark, created in the 4th of Charles I. Being unfortunately slain in crossing the Humber in 1643, he was succeeded by his son Henry, created marquis of Dorchester in 1645, only for life; who dying in 1680, without male issue, was succeeded in the earldom by Robert, grandson of his younger brother William Pierpoint of Thoresby; who dying unmarried in 1682, left this honour to William his brother and heir; and he also dying without issue in 1690, it descended to his brother Evelyn, who was further advanced to the honours of marquis of Dorchester in 1706 and duke of Kingston in 1715; and dying in 1725 was succeeded by his grandson Evelyn last duke of Kingston, who died in 1773, and the title became extinct.

KINGSTON, a town of Ireland, in the province of Leinster and capital of King's county. W. Long. 7. 20. N. Lat. 53. 15. It is otherwise called *Philips-Town*.

KINGSTON, a town of Jamaica, seated on the north side of the bay of Port-Royal. It was founded in the year 1693, when the repeated desolations by earthquake and fire had driven the inhabitants from Port-Royal. It extends a mile from north to south, and about as much from east to west, on the harbour. It contains about 3000 houses, besides negro-houses and warehouses. The number of white inhabitants is about 8000; of free people, of colour, 1500; and of slaves, about 14,000. It is the county-town, where the assizes are held, in January, April, July, and October, and last about a fortnight. It is a place of good trade; and is much resorted to by merchants and seamen, because most of the ships come to load and unload their cargoes here. W. Long. 76. 32. N. Lat. 17. 40.

KINGTON, or **KYNETON**, a pretty large town in Herefordshire, 146 miles from London. It is situated on the river Arrow, and is inhabited chiefly by clothiers, who drive a considerable trade in narrow cloth. It has a charity-school, a market, and three fairs.

Kinnor fairs. The markets on Wednesday before Easter, Whitsuntide, and Christmas, are so considerable for corn, cattle, leather, home made linen and woollen cloth, and all sorts of provisions, that they are more like fairs.

KINNOR, or **CHINNOR**. See **CHINNOR**.

KINO, in the materia medica, a gum resin. This drug was first recommended to the attention of medical practitioners by Dr Fothergill, as being a very useful vegetable astringent; and in the hands of other practitioners it has been so far found to answer the character he gave of it, that it is now in very common use. It has a considerable resemblance to the catechu; but is much more of a resinous nature, and of a less firm texture: it is also redder and more astringent; its watery solution more decomposable by acids; and its ink less permanent. Its colouring and astringent matter are more perfectly taken up by spirit than by water, though water readily enough extracts a considerable share of both. It is used as an astringent in diarrhoea, hæmorrhagies, &c. In proof-spirit it forms an elegant tincture; and it is a principal ingredient in the *pulvis stypticus*, and some other officinal compositions.

KINROSS, the county-town of Kinrosshire in Scotland, situated in W. Long. 3. 7. N. Lat. 56. 15. on the west side of Lochleven, a fresh-water lake about 10 miles in compass, abounding with pike, trout, perch, and water-fowl. The manufactures are linen and some cutlery ware. The house of Kinross, an elegant ancient structure, stands on the north side of the town. Kinross sends a member to parliament by turns with Clackmannan. In the lake are two islands; on one of which appear the ruins of a priory, heretofore possessed by the Culdees; the other is famous for the castle in which Queen Mary was imprisoned by her rebellious subjects.

KINSALE, a town of the county of Cork in Ireland, situated at the mouth of the river Ban or Bandon, 136 miles from Dublin. It is reckoned the third town in the kingdom, and inferior only to Cork in point of trade. It is neat, well built, and wealthy; is governed by a sovereign and recorder, and returns two members to parliament, patronage in the Southwell family. It is defended by a strong fort built by king Charles II. called *Charles's Fort*; and on the opposite shore there are two well-built villages, called *Cove* and *Scilly*. In the town and liberties are 6 parishes, 30 plough-lands, and therein 6846 acres. The barracks hold 12 companies of foot, besides a regiment at Charles's fort. In the centre of the town is a good market house, and near it a strong built prison; and there are scattered up and down the ruins of several monasteries and religious houses. It has two fairs. In time of war Kinsale is a place of much business, being then frequented by rich homeward bound fleets and ships of war, for which reason most of the houses are then let at double rents. The harbour is very commodious, and perfectly secure; so large that the English and Dutch Smyrna fleets have anchored in it at the same time. There is a dock and yard for repairing ships of war, and a crane and gun wharf for landing and shipping heavy artillery. Ships may sail into or out of this harbour, keeping in the middle of the channel, with

the utmost safety. Within the haven on the west side lies a great shelf, which shoots a great way off from the land; but leaves an ample passage by the side of it, in which, as in all the rest of the harbour, it is many fathoms deep. Lord Kinsale has the ancient privilege of keeping his hat on in the king's presence. Kinsale gives the title of *baron* to the very ancient family of Courcy, lineally descended from John de Courcy earl of Ulster, who from him have the privilege to be covered in the presence of the king of England.

KINTORE, a royal borough of Aberdeenshire in Scotland, situated on the river Don, in W. Long. 2. 5. N. Lat. 57. 38. It gives the title of *earl* to a branch of the noble family of Keith, but in other respects is inconsiderable.

KINTYRE. See **CANTIRE**.

KIOF, or **KIOW**, a considerable town of Poland, and capital of the Ukrain in the palatinate of the same name, with an archbishop's see and a castle. It belongs to Russia, and carries on a considerable trade. It is divided into the Old and New Town, and seated on the river Nieper, in E. Long. 31. 51. N. Lat. 50. 12.

KIPPING (Henry), in Latin *Kippingius*, a learned German Lutheran born at Bostock; where, after having received the degree of master of arts, he was met by some soldiers who pressed him into the service. This, however, did not prevent his following his studies. One day while he was upon duty, holding his musket in one hand and the poet Statius in the other, a Swedish counsellor, who perceived him in that attitude, came up to him, entered into discourse with him, and then taking him to his house made him his librarian, and procured him the under-rectorship of the college of Bremen, where he died in 1678. He wrote many works in Latin; the principal of which are, 1. A treatise on the antiquities of the Romans. 2. Another on the works of Creation. 3. Several dissertations on the Old and New Testament, &c.

KIRCH (Christian Frederic), of Berlin, a celebrated astronomer, was born at Guben in 1694, and acquired great reputation in the observatories of Dantzic and Berlin. Godfrey Kirch his father, and Mary his mother, acquired considerable reputation by their astronomical observations. This family corresponded with all the learned societies of Europe, and their astronomical works are in high repute.

KIRCHER (Athanasius), a famous philosopher and mathematician, was born at Fulde in 1601. In 1618 he entered into the society of the Jesuits, and taught philosophy, mathematics, the Hebrew and Syriac languages, in the university of Wirtzburg, with great applause till the year 1631. He went to France on account of the ravages committed by the Swedes in Franconia, and lived some time at Avignon. He was afterwards called to Rome, where he taught mathematics in the Roman college, collected a rich cabinet of machines and antiquities, and died in 1680. — The quantity of his works is immense, amounting to 22 vols in folio, 11 in quarto, and 3 in 8vo; enough to employ a man for a great part of his life even to transcribe them. Most of them are rather curious than useful; many of them visionary and fanciful; and if they are not always accompanied with the greatest exactness.

Kintore
||
Kircher.

Kirchman
Kirkby.

actness and precision, the reader, it is presumed, will not be astonished. The principal of his works are, 1. *Prelusiones magneticae*. 2. *Primitiae gnomonica catoptricae*. 3. *Ars magna lucis & umbræ*. 4. *Musurgia universalis*. 5. *Obeliscus Pamphilius*. 6. *Oedipus Ægyptiacus*, four volumes, folio. 7. *Itinerarium extaticum*. 8. *Obeliscus Ægyptianus*, in four volumes, folio. 9. *Mundus subterraneus*. 10. *China illustrata*.

KIRCHMAN (John), an eminent German divine, was born at Lubec in 1575. He studied in several places of Germany; in 1602 was made professor of poetry at Rostock, and in 1613 rector of the university at Lubec. He exercised this last employment with an extraordinary application during the rest of his life, and died in 1643. He wrote several works; the most esteemed of which are, 1. *De funeribus Romanorum*. 2. *De annulis liber singularis*.

KIRIATHAIM, (anc. geog.), one of the towns built by the Reubenites; reckoned to the tribe of Reuben (Joshua, xiii.), 12 miles to the west of Midaba. The ancient residence of the giants called *Emim*.

KIRIATH ARBA. See HEBRON.

KIRIATH-Baal, or *Cariatb-baal*, called also *Kiriath-jearim*, "the city of the woods;" one of the cities of the Gibeonites belonging to the tribe of Judah, nine miles from Aelia, in the road to Diospolis. It was also called *Baala* (Joshua). The ark of the covenant, after its recovery from the Philistines, stood for some time in this city (1 Sam. vii).

KIRK, a Saxon term, signifying the same with church.

Kirk-Sessions, the name of a petty ecclesiastical judicatory in Scotland. Each parish, according to its extent, is divided into several particular districts; every one of which has its own elder and deacon to oversee it. A consistory of the ministers, elders, and deacons of a parish, form a *kirk-session*.—These meet once a week, the minister being their moderator, but without a negative voice. It regulates matters relating to public worship, elections, catechising, visitations, &c. It judges in matters of less scandal; but greater, as adultery, are left to the presbytery; and in all cases an appeal lies from it to the presbytery. *Kirk-sessions* have likewise the care of the poor and poor's funds.

KIRKALDY, a town of the county of Fife in Scotland, two miles to the north-east of Kinghorn. It is a royal borough, the seat of a presbytery, and gives the title of *baron* to the earl of Melville. The town is populous, well built, and extends a mile in length from east to west, enjoying a tolerable share of trade by exporting its own produce and manufactures of corn, coal, linen, and salt. W. Long. 3. O. N. Lat. 56. 8.

KIRKBY-LONSDALE, a town of Westmoreland, 253 miles from London. It is a large place, with a woollen manufactory, and a market on Tuesday. It has a free school well endowed, with three presentations to Christ's college Cambridge. It has a large church, and a good stone-bridge of three arches over the Lon. From its churchyard and the banks of the river, there is a very fine prospect of the mountains at a vast distance, as well as of the course of the river, which abounds with salmon, trout, &c. and provisions of all sorts are very cheap here.

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KIRKBY-STEVEN, or *Stephen's-Church*, a town of Westmoreland, 257 miles from London, stands on the river Eden near Sedbergh and Asgarth. The church is a large building with a lofty tower; in it are several old monuments. Here is a good free school that has two exhibitions. The town is noted for the manufactory of yarn stockings; and it has a market and a fair.

KIRKBY-THORE, a town of Westmoreland, stands also on the river Eden, north-west of Appleby, 267 miles from London. A horn of a moose-deer was found here a few years since, at the depth of four feet from the surface of the earth; and several other antiquities have been dug up or taken out of a well, discovered at the end of the town near the bridge. Below it are the vast ruins of an ancient town, where Roman coins and urns are frequently dug up. The people call it *Whely-castle*, 300 yards in length, and 150 in breadth, with three entrances on each side, with bulwarks before them. At a little distance from thence Roman urns are found containing bones and ashes. The old military-way runs through it, called the *Maiden-way*, because it began at Maiden-castle in Stainmore in Yorkshire, north riding.

KIRKCUDBRIGHT, beginning at the middle of Dumfries-shire in Scotland, makes a considerable part of Galloway, of which the earls of Nithisdale were hereditary stewards. The face of the country exhibits the appearance of one continued heath, producing nothing but pasture for sheep and small black cattle, which are generally sold in England; yet these dusky moors are intersected with pleasant valleys, and adorned with a great number of castles belonging to private gentlemen, every house being surrounded with an agreeable plantation. It is watered by the river Dee; which, taking its rise from the mountains near Carrick, runs through a tract of land about 70 miles in length, and, entering the Irish sea, forms the harbour of Kirkcudbright, a small inconsiderable borough, admirably situated for the fishery and other branches of commerce, which are almost totally neglected through the poverty and indolence of the inhabitants. There is no other town of any consequence in this stewartry. Kirkcudbright gives title of *baron* to the Maclellans, who formerly were a powerful family in the county.

KIRKHAM, a town of Lancashire, 221 miles from London, stands near the Ribble, six miles from the Irish sea, in that part of the county called the *Field-lands*. It has a market and three fairs, and a free school well endowed. By the late inland navigation, it has a communication with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles, in the counties of Lincoln, Nottingham, York, Westmoreland, Chester, Warwick, Leicester, Oxford, Worcester, &c.

KIRKOSWALD, a town of Cumberland on the Eden, 291 miles from London. It had formerly a castle, which was demolished above 100 years ago. It has a market and two fairs. Its church is a very irregular old building; and the belfrey is placed distant from the church on the top of an hill, that the sound of the bells might be more easily heard by the circumjacent villages.

KIRK.

Kirkby
Kirkoswald.

Kirkwall,
Kirstenius.

Kirtle
Kiri.

KIRKWALL, the capital of the Orkneys, situated in the island of Pomona, in W. Long. o. 25. N. Lat. 58. 33. It is built upon an inlet of the sea near the middle of the island, having a very safe road and harbour for shipping. It is a royal borough, governed by a provost, four bailiffs, and a common-council. It was formerly possessed by the Norwegians, who bestowed upon it the name of *Crucoviaca*. From king James III. of Scotland they obtained a new charter empowering them to elect their own magistrates yearly, to hold borough-courts, arrest, imprison, make laws and ordinances for the right government of the town; to have a weekly market, and three fairs annually at certain fixed terms: he moreover granted to them some lands adjoining to the town, with the customs and shore-dues, the power of a pit and gallows, and exempted them from the expence of sending commissioners to parliament. This charter has been confirmed by succeeding monarchs. At present Kirkwall is the seat of justice, where the steward, sheriff, and commissary, hold their several courts of jurisdiction: Here is likewise a public grammar-school, endowed with a competent salary for the master. The town consists of one narrow street about a mile in length; the houses are chiefly covered with slate, though not at all remarkable for neatness and convenience. — The principal edifices are the cathedral church and the bishop's palace. The former, called *St Magnus*, from Magnus king of Norway, the supposed founder of the town, is a large Gothic structure: the roof is supported by 14 pillars on each side, and the spire is built upon four large columns. The gates are decorated with a kind of Mosaic work, of red and white stones elegantly carved and flowered. By the ruins of the king's castle or citadel, it appears to have been a strong and stately fortress. At the north end of the town there is a sort of fortification built by the English in the time of Oliver Cromwell. It is surrounded with a ditch and rampart, and still mounted with some cannon for the defence of the harbour.

KIRSTENIUS (Peter), professor of physic at Upsal, and physician-extraordinary to the queen of Sweden, was born at Breslaw in 1577. He studied Greek, Latin, Hebrew, Syriac, natural philosophy, anatomy, botany, and other sciences. Being told that a man could not distinguish himself in physic unless he understood Avicenna, he applied himself to the study of Arabic; and not only to read Avicenna, but also Mesue, Rhafis, Abenzoar, Abukafis, and Averroes. He visited Spain, Italy, England, and did not return home from his travels till after seven years. He was chosen by the magistrates of Breslaw to have the direction of their college and of their schools. A fit of sickness having obliged him to resign that difficult employment, with which he was also much disgusted, he applied himself chiefly to the practice of physic, and went with his family into Prussia. Here he obtained the friendship and esteem of the chancellor Oxenstiern, whom he accompanied into Sweden; where he was made professor of physic in the university of Upsal, and physician to the queen. He died in 1640. It is said in his epitaph, that he understood 26 languages. He wrote many works; among which are, 1. *Liber secundus Canonis Avicennae, typis Arabicis*, Vol. IX. Part II.

ex MSS. editus, et ad verbum in Latinum translatus, in folio. 2. *De vero usu et abusu Medicinae*. 3. *Grammatica Arabica*, folio. 4. *Vita quatuor Evangelistarum, ex antiquissimo codice MSS. Arabico eruta*, in folio. 5. *Nota in Evangelium S. Matthaei, ex collatione textuum Arabicorum, Syriacorum, Aegyptiacorum, Graecorum, & Latinorum*, in folio, &c.

He ought not to be confounded with *George Kirstenius*, another learned physician and naturalist, who was born at Stettin, and died in 1660; and also wrote several works which are esteemed.

KIRTLE, a term used for a short jacket; also for a quantity of flax about a hundred weight.

KIRTON, or **KIRKTON**, a town of Lincolnshire, 151 miles from London. It had its name from its kirk or church, which is truly magnificent. It has a market and two fairs. This place is famous for the pippin, which, when grafted on its stock, is called the *rennet*. It gives names to its hundreds, in which are four villages of the same name.

KISSER, the ancient Colonia Assuras in Africa, as appears from many inscriptions still to be met with in the place. Here is a triumphal arch done in a very good taste: there is also a small temple of a square figure, having several instruments of sacrifice carved upon it; but the execution is much inferior to the design, which is very curious. The town is situated in the kingdom of Tunis, on the declivity of a hill, above a large fertile plain; which is still called the plain of *Surso*, probably from its ancient name *Assuras*.

KISSING, by way of salutation, or as a token of respect, has been practised in all nations. The Roman emperors saluted their principal officers by a kiss. Kissing the mouth or the eyes was the usual compliment upon any promotion or happy event. Soldiers kissed the general's hand when he quitted his office. Fathers, amongst the Romans, had so much delicacy, that they never embraced their wives in the presence of their daughters. Near relations were allowed to kiss their female kindred on the mouth: but this was done in order to know whether they smelt of wine or not; because the Roman ladies, in spite of a prohibition to the contrary, were found sometimes to have made too free with the juice of the grape. Slaves kissed their masters hand, who used to hold it out to them for that purpose. Kissing was a customary mode of salutation amongst the Jews, as we may collect from the circumstance of Judas approaching his Master with a kiss. Relations used to kiss their kindred when dying, and when dead; when dying, out of a strange opinion that they should imbibe the departing soul; and when dead, by way of valedictory ceremony. They even kissed the corpse after it was conveyed to the pile, when it had been seven or eight days dead.

KISTI, an Asiatic nation, which extends from the highest ridge of Caucasus, along the Sundsha rivulets. According to Major Rennel*, they are bounded to the west by the little Cabarda, to the east by the Tartars and Lefguis, and to the south by the Lefguis and Georgians. He imagines they may be the people whom Gaerber calls the *Taulinzi*, i. e. "mountaineers," and to whom he attributes the following strange custom:—"When a guest or stranger comes to lodge with them, one of the host's daughters is obliged to

* Memoir
of a map of
the countries
comprehended
between the
Black Sea
and the Cas-
pian.

Kisti.

receive him, to unsaddle and feed his horse, take care of his baggage, prepare his dinner, pass the night with him, and continue at his disposal during his stay. At his departure, he saddles his horse and packs up his baggage. It would be very uncourtly to refuse any of these marks of hospitality." The different tribes of this restless and turbulent nation are generally at variance with each other, and with all their neighbours. Their dialects have no analogy with any known language, and their history and origin are at present utterly unknown.

Their districts, as enumerated in Major Rennel's Memoir, are, 1. Ingush, about 60 miles to the southward of Mosdok, in the high mountains about the Kumbelei. 2. Endery; and, 3. Axai, on a low ridge between the Sundsha and Iaxai rivers. In their territories are the hotwells. 4. Ackinyurt, towards the upper part of the Sundsha and Kumbelei. 5. Ardakli, on the Roshni that joins the Sundsha. 6. Wapi, near the Ofsetin village Tshim, towards the source of the Terek. 7. Angusht, on the upper part of the Kumbelei. 8. Shalkha, called by the Russians *Maloi Angusht*. 9. Tshetshen, on the lower part of the Argun river. 10. Atakhi, a small district on the upper part of the Argun. 11. Kulga, or Dshanti, in the high mountains. 12. Galgai, or Halha, about the source of the Afai, a Sundsha rivulet. 13. Tshabrilo, and Shabul, on the Sundsha. 14. Tshishni-Kabul, on the Roshni, a Sundsha rivulet. 15. Karaboulak, a wandering tribe, who have their little villages about the six uppermost rivulets of the Sundsha, particularly the Fortan. 16. Meesti, Meredshi, Galashka, and Duban, are small tribes on the Axai.

The Ingush, or first of the above tribes, submitted to Russia in 1770. They are capable of arming about 5000 men; they call themselves *Ingushi*, *Kishi*, or *Halha*; they live in villages near each other, containing about 20 or 30 houses; are diligent husbandmen, and rich in cattle. Many of their villages have a stone tower, which serves in time of war as a retreat to their women and children, and as a magazine for their effects. These people are all armed, and have the custom of wearing shields.—Their religion is very simple, but has some traces of Christianity: They believe in one God, whom they call *Dailé*, but have no saints or religious persons; they celebrate Sunday, not by any religious ceremony, but by resting from labour; they have a fast in spring, and another in summer; they observe no ceremonies either at births or deaths; they allow of polygamy, and eat pork. One kind of sacrifice is usual among them: at certain times a sheep is killed by a person who seems to be considered as a kind of priest, as he is obliged to live in a state of celibacy. His habitation is in the mountains, near an old stone church, which is said to be adorned with various statues and inscriptions. Under the church is a vault that contains certain old books, which, however, no one ever attempts to approach. Mr Guldenstaedt† was prevented by the weather from visiting this church.

The 6th, 7th, and 8th tribes, which were formerly tributary to the Cabardean princes, submitted to Russia in 1770. The 9th, Tshetshen, is governed by its own chiefs, who are related to the Avar-Khan. This tribe is so numerous and warlike, and has given the Russians so much trouble, that its name is usually given

by them to the whole Kisti nation. The chief village of Tshetshen lies on the Argun, about 15 miles from its mouth. Its other principal villages are Hadshi-aul and Iangejent, both on the Sundsha.

KIT, in music, the name of a small violin of such form and dimension as to be capable of being carried in a case or sheath in the pocket. Its length, measuring from the extremities, is about 16 inches, and that of the bow about 17. Small as this instrument is, its powers are coextensive with those of the violin.

KIT-Kat Club, an association of above 30 noblemen and gentlemen of distinguished merit, formed in 1703, purely to unite their zeal in favour of the Protestant succession in the house of Hanover. Their name was derived from Christopher Kat, a pastry-cook, near the tavern where they met in King's-street, Westminster, who often supplied them with tarts. Old Jacob Tonson was their bookseller; and that family is in possession of a picture of the original members of this famous club, painted by Sir Godfrey Kneller. The design of these gentlemen was to recommend and encourage true loyalty by the powerful influence of wit and humour; and Sir Samuel Garth distinguished himself by the extempore epigrams he made on their toasts, which were inscribed on their drinking glasses.

KITCHEN, the room in a house where the provisions are cooked.

Army KITCHEN, is a space of about 16 or 18 feet diameter, with a ditch surrounding it three feet wide; the opposite bank of which serves as a seat for the men who dress the victuals. The kitchens of the flank companies are contiguous to the outline of the camp; and the intermediate space is generally distributed equally for the remaining kitchens; and as each tent forms a mess, each kitchen must have as many fire-places as there are tents in the company.

KITCHEN-Garden, a piece of ground laid out for the cultivation of fruit, herbs, pulse, and other vegetables, used in the kitchen.

A kitchen-garden ought to be situated on one side of the house, near the stables, from whence the dung may be easily conveyed into it; and after having built the wall, borders should be made under them; which, according to Miller, ought to be eight or ten feet broad; upon those borders exposed to the south, many sorts of early plants may be sown; and upon those exposed to the north, you may have some late crops, taking care not to plant any sort of deep-rooting plants, especially beans and pease, too near the fruit-trees. You should next proceed to divide the ground into quarters; the best figures for these is a square or an oblong, if the ground will admit of it; otherwise they may be of that shape which will be most advantageous to the ground: the size of these quarters should be proportioned to that of the garden; if they are too small, your ground will be lost in walks, and the quarters being inclosed by espaliers of fruit-trees, the plants will draw up slender, for want of a more open exposure. The walks should also be proportioned to the size of the ground: these in a small garden should be six feet broad, but in a large one ten; and on each side of the walk there should be allowed a border three or four feet wide between it and the espalier; and in these borders may be sown some small salads, or any other herbs that do not take deep root

Kit,
Kitchen.

† *Russ.*
vol. I.
p. 130.

Kite
||
Kleist.

or continue long; but these quarters should not be sown or planted with the same crop two years together. In one of these quarters, situated nearest to the stables, and best defended from the cold winds, should be the hot-beds, for early cucumbers, melons, &c. and to these there should be a passage from the stables, and a gate through which a small cart may enter. The most important points of general culture consist in well digging and manuring the soil; and giving a proper distance to each plant, according to their different growths: as also in keeping them clear from weeds; for which purpose, you should always observe to keep your dung-hills clear from them, otherwise their seeds will be constantly brought in and spread with the dung.

KITE, in ornithology. See FALCO, sp. 8.

KITTIWAKE, in ornithology. See LARUS.

KIU-HOA. See PARTHENIUM.

KIUN-TCHEOU-FOU. See HAI-Nan.

KLEINPOVIA, in botany: A genus of the dicandria order, belonging to the gynandria class of plants; and in the natural method ranking under the 37th order, *Columniferae*. The calyx is pentaphyllous; the petals five; the nectarium campanulated and pedunculated, containing the stamina; the capsule is inflated and five-seeded.

KLEIST (Edward Christian de), a celebrated German poet, and a soldier of distinguished bravery, was born at Zeblin, in Pomerania, in 1715. At nine years of age he was sent to pursue his studies at Cron in Poland; and he afterwards studied at Dantzick and Königsberg. Having finished his studies, he went to visit his relations in Denmark, who invited him to settle there; and having in vain endeavoured to obtain preferment in the law, at 21 years of age accepted of a post in the Danish army. He then applied himself to the study of all the sciences that have a relation to military affairs, with the same assiduity as he had before studied civil law. In 1740, at the beginning of the reign of Frederic king of Prussia, Mr de Kleist went to Berlin, and was presented to his majesty, who made him lieutenant of his brother prince Henry's regiment; and he was in all the campaigns which distinguished the five first years of the king of Prussia's reign. In 1749 he obtained the post of captain; and in that year published his excellent poem on the Spring. Before the breaking out of the last war, the king chose him, with some other officers at Potsdam, companion to the young prince Frederic-William of Prussia, and to eat at his table. In the first campaign, in 1756, he was nominated major of Hausen's regiment; which being in garrison at Leipzig, he had time to finish several new poems. After the battle of Rosbach, the king gave him, by an order in his own hand-writing, the inspection of the great hospital established at Leipzig. And on this occasion his humanity was celebrated by the sick and wounded of both parties, and his disinterestedness was equally admired by all the inhabitants of that city. In 1758, Prince Henry coming to Leipzig, Mr Kleist desired to serve in his army with the regiment of Hausen, which was readily granted. Opportunities of distinguishing himself could not be wanting under that great officer, and he always communicated his courage to the battalion under his command. He also

served that prince at the beginning of the campaign of 1759, when he was with him in Franconia, and in all the expeditions of that army, till he was detached with the troops under general de Fink to join the king's army. On the 12th of August was fought the bloody battle of Kunersdorf, in which he fell. He attacked the flank of the Russians, and assisted in gaining three batteries. In these bloody attacks he received twelve contusions; and the two first fingers of his right hand being wounded, he was forced to hold his sword in the left. His post of major obliged him to remain behind the ranks; but he no sooner perceived the commander of the battalion wounded and carried away, than he instantly put himself at the head of his troop. He led his battalion in the midst of the terrible fire of the enemy's artillery, against the fourth battery. He called up the colours of the regiment; and, taking an ensign by the arm, led him on. Here he received a ball in his left arm; when, being no longer able to hold his sword in his left hand, he took it again in the right, and held it with the two last fingers and his thumb. He still pushed forward, and was within thirty steps of the battery, when his right leg was shattered by the wadding of one of the great guns; and he fell from his horse, crying to his men, "My boys, don't abandon your king." By the assistance of those who surrounded him, he endeavoured twice to remount his horse; but his strength forsook him, and he fainted. He was then carried behind the line; where a surgeon, attempting to dress his wounds, was shot dead. The Cossacks arriving soon after, stripped Mr Kleist naked, and threw him into a mirey place; where some Russian hussars found him in the night, and laid him upon some straw near the fire of the grand guard, covered him with a cloak, put a hat on his head, and gave him some bread and water. In the morning one of them offered him a piece of silver, which he refused; on which he tossed it upon the cloak that covered him, and then departed with his companions. Soon after the Cossacks returned, and took all that the generous hussars had given him. Thus he again lay naked on the earth; and in that cruel situation continued till noon, when he was known by a Russian officer, who caused him to be conveyed in a waggon to Frankfort on the Oder; where he arrived in the evening, in a very weak state, and was instantly put into the hands of the surgeons. But the fractured bones separating, broke an artery, and he died by the loss of blood. The city of Frankfort being then in the hands of the enemy, they buried this Prussian hero with all military honours; the governor, a great number of the Russian officers, the magistrates of the city, with the professors and the students, formed the procession, preceded by the funeral music. Mr Kleist's poems, which are greatly admired, are elegantly printed in the German tongue, in 2 volumes 8vo.

KNARESBOROUGH, a town in the West Riding of Yorkshire in England, 199 miles from London, is an ancient borough by prescription, called by foreigners *the Yorkshire Spaw*. It is almost encompassed by the river Nid, which issues from the bottom of Craven-hills; and had a priory, with a castle, long since demolished, on a craggy rock, whence it took the name. The town is about three furlongs in length;

Kleist,
Knaresb-
rough.

Knapdale
Knee.

and the parish is famous for four medicinal springs near each other, and yet of different qualities. 1. The sweet spaw, or vitriolic well, in Knaresborough forest, three miles from the town, which was discovered in 1620. 2. The stinking, or sulphureous spaw, which is used only in bathing. 3. St Mungo's, a cold-bath, four miles from the town. 4. The dropping-well, which is in the town, and the most noted petrifying spring in England, so called by reason of its dropping from the spongy rock hanging over it. The ground which receives it, before it joins the well, is, for 12 yards long, become a solid rock. From the well it runs into the Nid, where the spring water has made a rock that stretches some yards into the river. The adjacent fields are noted for liquorice, and a soft yellow marle, which is rich manure. The town is governed by a bailiff. Its baths are not so much frequented since Scarborough Spaw came in vogue. It has a good market and six fairs. Here is a stone bridge over the river, near one end of which is a cell dug out of the rock, and called *St Robert's chapel*.

KNAPDALE, one of the divisions of Argyleshire in Scotland. It is parted from Cowal on the east by Lochfyn, borders with Kintyre on the south, with Lorn on the north, by Braidalbin on the north-east, and on the west by the Hebrides. Its length from north to south does not exceed 20 miles, and the breadth in some places may amount to 13. It is joined to Kintyre by a neck of land not above a mile broad, over which the country people draw their boats, to avoid sailing round Kintyre. This part of Knapdale abounds with lakes, some of them containing little islands, on which there are castles belonging to different proprietors. The grounds are more adapted for pasturage than grain; but that on the side of Lochow is fruitful in both.

KNAPSACK, in a military sense, a rough leather bag which a soldier carries on his back, and which contains all his necessaries. Square knapsacks are most convenient; and should be made with a division to hold the shoes, black-ball and brushes, separate from the linen. White goat-skins are the best.

KNAVE, an old Saxon word, which had at first a sense of simplicity and innocence, for it signified a boy: Sax. *cnapa*, whence a *knave-child*, i. e. a boy, distinguished from a girl, in several old writers; afterwards it was taken for a servant-boy, and at length for any servant-man. Also it was applied to a minister or officer that bore the shield or weapon of his superior; as *field-knapa*, whom the Latins call *armiger*, and the French *escuyer*, 14 Edw. III. c. 3. And it was sometimes of old made use of as a titular addition; as *Joannes C. filius Willielmi C. de Derby, knave*, &c. 22 Hen. VII. c. 37. The word is now perverted to the hardest meaning, viz. a false deceitful fellow.

KNAVESHIP, in Scots law, one of the names of the small duties payable in thirlage to the miller's servants, called *seigns*.

KNAUTIA, in botany: A genus of the monogynia order, belonging to the tetrandria class of plants; and in the natural method ranking under the 48th order, *Aggregata*. The common calyx is oblong, simple, quinqueflorous; the proper one simple, superior; the florets irregular; the receptacle naked.

KNEE, in anatomy, the articulation of the thigh and leg bones. See ANATOMY, n° 59.

KNEE, in a ship, a crooked piece of timber, having two branches or arms, and generally used to connect the beams of a ship with her sides or timbers.

The branches of the knees form an angle of greater or smaller extent, according to the mutual situation of the pieces which they are designed to unite. One branch is securely bolted to one of the deck-beams, whilst the other is in the same manner attached to a corresponding timber in the ship's side, as represented by E in the plate of *MIDSHIP-Frame*.

Besides the great utility of knees in connecting the beams and timbers into one compact frame, they contribute greatly to the strength and solidity of the ship, in the different parts of her frame to which they are bolted; and thereby enable her with greater firmness to resist the effects of a turbulent sea.

In fixing of these pieces, it is occasionally necessary to give an oblique direction to the vertical or side branch, in order to avoid the range of an adjacent gun-port, or because the knee may be so shaped as to require this disposition; it being sometimes difficult to procure so great a variety of knees as may be necessary in the construction of a number of ships of war.

In France, the scarcity of these pieces has obliged their ship-wrights frequently to form their knees of iron.

Knees are either said to be *lodging* or *hanging*. The former are fixed horizontally in the ship's frame, having one arm bolted to the beam, and the other across two or three timbers, as represented in the DECK, Plate CLVI. The latter are fixed vertically, as we have described above. See also *SHIP-Building*, DECK, and *MIDSHIP-Frame*.

KNEE of the Head, a large flat piece of timber, fixed edgewise upon the fore-part of a ship's stem, and supporting the ornamental figure or image placed under the bowsprit. See *SHIP-Building*.

The *knee of the head*, which may properly be defined a continuation of the stem, as being prolonged from the stem forwards, is extremely broad at the upper-part, and accordingly composed of several pieces united into one, YY (*Pieces of the Hull, in SHIP-Building Plates*). It is let into the head, and secured to the ship's bows by strong knees fixed horizontally upon both, and called *the cheeks of the head*. The heel of it is scarfed to the upper-end of the fore foot; and it is fastened to the stem above by a knee, called a *standard*, expressed by & in the plate.

Besides supporting the figure of the head, this piece is otherwise useful, as serving to secure the boom or bumkin, by which the fore-tack is extended to windward; and by its great breadth, preventing the ship from falling to leeward when close-hauled so much as she would otherwise do. It also affords a greater security to the bowsprit, by increasing the angle of the bob-stay, so as to make it act more perpendicularly on the bowsprit.

The *knee of the head* is a phrase peculiar to ship-wrights; as this piece is always called the *cut-water* by seamen, if we except a few, who, affecting to be wiser than their brethren, have adopted this expression probably on the presumption that the other is a cant-phrase or vulgarism.

Carling KNEES, in a ship, those timbers which extend from the ship to the hatch-way, and bear up the deck on both sides.

KNELLER

Knee.

Kneller
||
Knight.

KNELLER (Sir Godfrey), a painter, whose fame is well established in these kingdoms. He was born at Lubeck in 1648; and received his first instructions in the school of Rembrandt, but became afterwards a disciple of Ferdinand Bol. When he had gained as much knowledge as that school afforded him, he travelled to Rome, where he fixed his particular attention on Titian and the Caraccii. He afterwards visited Venice, and distinguished himself so effectually in that city by his historical pictures and portraits of the noble families there, that his reputation became considerable in Italy. By the advice of some friends he came at last to England, where it was his good fortune to gain the favour of the duke of Monmouth: by his recommendation, he drew the picture of King Charles II. more than once; who was so taken with his skill in doing it, that he used to come and sit to him at his house in Covent-garden piazza. The Death of Sir Peter Lely left him without a competitor in England, and from that time his fortune and fame were thoroughly established. No painter could have more incessant employment, and no painter could be more distinguished by public honour. He was state-painter to Charles II. James II. William III. Queen Anne, and George I. equally esteemed and respected by them all: the Emperor Leopold made him a knight of the Roman empire, and King George I. created him a baronet. Most of the nobility and gentry had their likenesses taken by him, and no painter excelled him in a sure outline, or in the graceful disposition of his figures: his works were celebrated by the best poets in his time. He built himself an elegant house at Whitton near Hampton-court, where he spent the latter part of his life; and died in 1726.

KNIFE is a well-known instrument, made for cutting, and adapted in form to the uses for which it is designed.

Knives are said to have been first made in England in 1563, by one Matthews, on Fleet-bridge, London. The importation of all sorts of knives is prohibited.

KNIGHT (*eques*), among the Romans, a person of the second degree of nobility, following immediately that of the senators. See *EQUESTRIAN Order*, and *EQUITES*.

KNIGHT, or *Cnecht* (Germ.), in feudal history, was originally an appellation or title given by the ancient Germans to their youth after being admitted to the privileges of bearing arms.

The passion for arms among the Germanic states, as described by Dr Stuart*, was carried to extremity. It was amidst scenes of death and peril that the young were educated: It was by valour and feats of prowess that the ambitious signalized their manhood. All the honours they knew were allotted to the brave. The sword opened the path to glory. It was in the field that the ingenious and the noble flattered most their pride, and acquired an ascendancy. The strength of their bodies, and the vigour of their counsels, surrounded them with warriors, and lifted them to command.

But, among these nations, when the individual felt the call of valour, and wished to try his strength against an enemy, he could not of his own authority take the lance and the javelin. The admission of their

youth to the privilege of bearing arms, was a matter of too much importance to be left to chance or their own choice. A form was invented by which they were advanced to that honour.

The council of the district, or of the canton to which the candidate belonged, was assembled. His age and his qualifications were inquired into; and if he was deemed worthy of being admitted to the privileges of a soldier, a chieftain, his father or one of his kindred adorned him with a shield and the lance. In consequence of this solemnity, he prepared to distinguish himself; his mind opened to the cares of the public; and the domestic concerns, or the offices of the family from which he had sprung, were no longer the objects of his attention. To this ceremony, so simple and so interesting, the institution of *knighthood* is indebted for its rise.

Knighthood, however, as a system, known under the denomination of *CHIVALRY*, is to be dated only from the 11th century. All Europe being reduced to a state of anarchy and confusion on the decline of the house of Charlemagne, every proprietor of a manor or lordship became a petty sovereign; the mansion-house was fortified by a moat, defended by a guard, and called a *castle*. The governor had a party of 700 or 800 men at his command; and with these he used frequently to make excursions, which commonly ended in a battle with the lord of some petty state of the same kind, whose castle was then pillaged, and the women and treasures borne off by the conqueror. During this state of universal hostility, there was no friendly communications between the provinces, nor any high roads from one part of the kingdom to another: the wealthy traders, who then travelled from place to place with their merchandise and their families, were in perpetual danger; the lord of almost every castle extorted something from them on the road; and at last, some one more rapacious than the rest, seized upon the whole of the cargo, and bore off the women for his own use.

Thus castles became the warehouses of all kinds of rich merchandise, and the prisons of the distressed females whose fathers or lovers had been plundered or slain, and who being therefore seldom disposed to take the thief or murderer into favour, were in continual danger of a rape.

But as some are always distinguished by virtue in the most general defection, it happened that many lords insensibly associated to repress these sallies of violence and rapine, to secure property, and protect the ladies. Among these were many lords of great fiefs; and the association was at length strengthened by a solemn vow, and received the sanction of a religious ceremony. As the first knights were men of the highest rank, and the largest possessions, such having most to lose, and the least temptation to steal, the fraternity was regarded with a kind of reverence, even by those against whom it was formed. Admission into the order was deemed the highest honour; many extraordinary qualifications were required in a candidate, and many new ceremonies were added at his creation. After having fasted from sun-rise, confessed himself, and received the sacrament, he was dressed in a white tunic, and placed by himself at a side-table, where he was neither to speak, to smile, nor to eat; while the

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knights

Knight.

knights and ladies, who were to perform the principal parts of the ceremony, were eating, drinking, and making merry at the great table. At night his armour was conveyed to the church where the ceremony was performed; and here having watched it till the morning, he advanced with his sword hanging about his neck, and received the benediction of the priest. He then kneeled down before the lady who was to put on his armour, who being assisted by persons of the first rank, buckled on his spurs, put an helmet on his head, and accoutred him with a coat of mail, a cuirass, bracelets, cuisses, and gauntlets.

Being thus armed cap-a-pee, the knight who dubbed him struck him three times over the shoulder with the flat side of his sword, in the name of God, St Michael, and St George. He was then obliged to watch all night in all his armour, with his sword girded, and his lance in his hand. From this time the knight devoted himself to the redress of those wrongs which "patient merit of the unworthy takes;" to secure merchants from the rapacious cruelty of banditti, and women from ravishers, to whose power they were, by the particular confusion of the times, continually exposed.

From this view of the origin of chivalry, it will be easy to account for the castle, the moat, and the bridge, which are found in romances; and as to the dwarf, he was a constant appendage to the rank and fortune of those times, and no castle therefore could be without him. The dwarf and the buffoon were then introduced to kill time, as the card-table is at present. It will also be easy to account for the multitude of captive ladies whom the knights, upon seizing a castle, set at liberty; and for the prodigious quantities of useless gold and silver vessels, rich stuffs, and other merchandise, with which many apartments in these castles are said to have been filled.

The principal lords who entered into the confraternity of knights, used to send their sons to each other to be educated, far from their parents, in the mystery of chivalry. These youths, before they arrived at the age of 21, were called *bachelors*, or *bas chevaliers*, inferior knights, and at that age were qualified to receive the order.

So honourable was the origin of an institution, commonly considered as the result of caprice and the source of extravagance; but which, on the contrary, rose naturally from the state of society in those times, and had a very serious effect in refining the manners of the European nations. Valour, humanity, courtesy, justice, honour, were its characteristics: and to these were added religion; which, by infusing a large portion of enthusiastic zeal, carried them all to a romantic excess, wonderfully suited to the genius of the age, and productive of the greatest and most permanent effects both upon policy and manners. War was carried on with less ferocity, when humanity, no less than courage, came to be deemed the ornament of knight-hood, and knighthood a distinction superior to royalty, and an honour which princes were proud to receive from the hands of private gentlemen: more gentle and polished manners were introduced, when courtesy was recommended as the most amiable of knightly virtues, and every knight devoted himself to the service of a lady: violence and oppression decreased, when it was

accounted meritorious to check and to punish them: a scrupulous adherence to truth, with the most religious attention to fulfil every engagement, but particularly those between the sexes as more easily violated, became the distinguishing character of a gentleman, because chivalry was regarded as the school of honour, and inculcated the most delicate sensibility with respect to that point; and valour, seconded by so many motives of love, religion, and virtue, became altogether irresistible.

That the spirit of chivalry sometimes rose to an extravagant height, and had often a pernicious tendency, must however be allowed. In Spain, under the influence of a romantic gallantry, it gave birth to a series of wild adventures which have been deservedly ridiculed: in the train of Norman ambition, it extinguished the liberties of England, and deluged Italy in blood; and at the call of superstition, and as the engine of papal power, it desolated Asia under the banner of the cross. But these ought not to be considered as arguments against an institution laudable in itself, and necessary at the time of its foundation: and those who pretend to despise it, the advocates of ancient barbarism and ancient rusticity, ought to remember, that chivalry not only first taught mankind to carry the civilities of peace into the operations of war, and to mingle politeness with the use of the sword; but roused the soul from its lethargy, invigorated the human character even while it softened it, and produced exploits which antiquity cannot parallel. Nor ought they to forget, that it gave variety, elegance, and pleasure, to the intercourse of life, by making woman a more essential part of society; and is therefore intitled to our gratitude, though the point of honour, and the refinements in gallantry, its more doubtful effects, should be excluded from the improvement of modern manners. For,

To illustrate this topic more particularly, we may observe, that women, among the ancient Greeks and Romans, seem to have been considered merely as objects of sensuality, or of domestic convenience: they were devoted to a state of seclusion and obscurity, had few attentions paid them, and were permitted to take as little share in the conversation as in the general commerce of life. But the northern nations, who paid a kind of devotion to the softer sex, even in their native forests, had no sooner settled themselves in the provinces of the Roman empire, than the female character began to assume new consequence. Those fierce barbarians, who seemed to thirst only for blood, who involved in one undistinguishing ruin the monuments of ancient grandeur and ancient ingenuity, and who devoted to the flames the knowledge of ages, always forbore to offer any violence to the women. They brought along with them the respectful gallantry of the north, which had power even to restrain their savage ferocity; and they introduced into the west of Europe a generosity of sentiment, and a complaisance toward the ladies, to which the most polished nations of antiquity were strangers.—These sentiments of generous gallantry were fostered by the institution of chivalry, which lifted woman yet higher in the scale of life. Instead of being nobody in society, she became *primum mobile*. Every knight devoting himself to danger, declared himself the humble servant of some

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Knight. some lady, and that lady was often the object of his love. Her honour was supposed to be intimately connected with his, and her smile was the reward of his valour: for her he attacked, for her he defended, and for her he shed his blood. Courage, animated by so powerful a motive, lost sight of every thing but enterprise: incredible toils were cheerfully endured, incredible actions were performed, and adventures seemingly fabulous were more than realised. The effect was reciprocal. Women, proud of their influence, became worthy of the heroism which they had inspired: they were not to be approached but by the high-minded and the brave; and men then could only be admitted to the bosom of the chaste fair, after proving their fidelity and affection by years of perseverance and of peril.

Again, as to the change which took place in the operations of war, it may be observed, that the perfect hero of antiquity was superior to fear, but he made use of every artifice to annoy his enemy: impelled by animosity and hostile passion, like the savage in the American woods, he was only anxious of attaining his end, without regarding whether fraud or force were the means. But the true knight or modern hero of the middle ages, who seems in all his rencounters to have had his eye on the judicial combat or judgment of God, had an equal contempt for stratagem and danger. He disdained to take advantage of his enemy: he desired only to see him, and to combat him upon equal terms, trusting that heaven would declare in behalf of the just; and as he professed only to vindicate the cause of religion, of injured beauty, or oppressed innocence, he was further confirmed in this enthusiastic opinion by his own heated imagination. Strongly persuaded that the decision must be in his favour, he fought as if under the influence of divine inspiration rather than of military ardour. Thus the system of chivalry, by a singular

combination of manners, blended the heroic and sanctified characters, united devotion and valour, zeal and gallantry, and reconciled the love of God and of the ladies.

Chivalry flourished most during the time of the croisades. From these holy wars it followed, that new fraternities of knighthood were invented: hence the knights of the Holy Sepulchre, the Hospitallers, Templars, and an infinite number of religious orders. Various other orders were at length instituted by sovereign princes: the Garter, by Edward III. of England; the Golden Fleece, by Philip the Good, duke of Burgundy; and St Michael, by Louis XI. of France. From this time ancient chivalry declined to an empty name; when sovereign princes established regular companies in their armies, knights-bannerets were no more, though it was still thought an honour to be dubbed by a great prince or victorious hero; and all who professed arms without knighthood assumed the title of *esquire*.

There is scarce a prince in Europe that has not thought fit to institute an order of knighthood; and the simple title of *knight*, which the kings of Britain confer on private subjects, is a derivation from ancient chivalry, although very remote from its source. See *Knight-BACHELOR*.

KNIGHT-Service (*servitium militare*, and in law French *chivalry*); a species of *TENURE*, the origin and nature of which are explained under the articles *CHIVALRY*, and *FEODAL System*, n° 13—21.

The knights produced by this tenure differed most essentially from the knights described in the preceding article; though the difference seems not to have been accurately attended to by authors (A). The one class of knights was of a high antiquity; the other was not heard of till the invention of a fee. The adorning with arms and the blow of the sword

(A) "The terms *knight* and *chivalier* (Dr Stuart * observes), denoted both the knight of *honour* and * *View of* knight of *tenure*; and *chivalry* was used to express both *knighthood* and *knight-service*. Hence, it has proceeded, *Society in* that these persons and these states have been confounded. Yet the marks of their difference are so strong and *Europe,* pointed, that one must wonder that writers should mistake them. It is not, however, mean and common *p. 346.* compilers only who have been deceived. Sir Edward Coke, notwithstanding his distinguishing head, is of this number. When estimating the value of the knight's fee at L. 20 *per annum*, he appeals to the statute *de militibus*, an. 1 Ed. II. and, by the sense of his illustration, he conceives, that the knights alluded to there were the same with the possessors of knight's fees: and they, no doubt, had knight's fees; but a knight's fee might be enjoyed not only by the tenants *in capite* of the crown, but by the tenants of a vassal, or by the tenants of a sub-vassal. Now, to these the statute makes no allusion. It did not mean to annex knighthood to every land-holder in the kingdom who had a knight's fee; but to encourage arms, by requiring the tenants *in capite* of the crown to take to them the dignity. He thus confounds *knighthood* and the *knight's fee*. COKE on Littleton, p. 69.

"If I am not deceived, Sir William Blackstone has fallen into the same mistake, and has added to it. Speaking of the knights of honour, or the *equites aurati* from the gilt spurs they wore, he thus expresses himself: 'They are also called, in our law, *milites*, because they formed a part, or indeed the whole, of the royal army, in virtue of their feudal tenures; one condition of which was, that every one who held a knight's fee (which in Henry II.'s time amounted to L. 20 *per annum*), was obliged to be knighted, and attend the king in his wars, or fined for his noncompliance. The exertion of this prerogative, as an expedient to raise money, in the reign of Charles I. gave great offence, though warranted by law, and the recent example of Queen Elizabeth: but it was, at the restoration, together with all other military branches of the feudal law, abolished; and this kind of knighthood has since that time fallen into great disrepute.' Book I. ch. 12.

"After what has been said, I need hardly observe, that this learned and able writer has confounded the knight of *honour* and the knight of *tenure*; and that the requisition to take knighthood was not made to every possessor of a knight's fee, but to the tenants of knight's fees held *in capite* of the crown, who had merely a sufficiency

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sword made the act of the creation of the ancient knight; the new knight was constituted by an investiture in a piece of land. The former was the member of an order of dignity which had particular privileges and distinctions; the latter was the receiver of a feudal grant. Knighthood was an honour; knight-service a tenure. The first communicated splendor to an army; the last gave it strength and numbers. The knight of honour might serve in any station whatever; the knight of tenure was in the rank of a soldier.—It is true at the same time, that every noble and baron were knights of tenure, as they held their lands by knight-service. But the number of fees they possessed, and their creation into rank, separated them widely from the simple individuals to whom they gave out grants of their lands, and who were merely the knights of tenure. It is no less true, that the sovereign, without conferring nobility, might give even a single fee to a tenant; and such vassals *in capite* of the crown, as well as the vassals of single fees from a subject, were the mere knights of tenure. But the former, in respect of their holding from the crown, were to be called to take upon themselves the knighthood of honour; a condition in which they might rise from the ranks, and be promoted to offices and command. And as to the vassals *in capite* of the crown who had many fees, their wealth of itself sufficiently distinguished them beyond the state of the mere knights of tenure. In fact, they possessed an authority over men who were of this last description; for, in proportion to their lands were the fees they gave out and the knights they commanded.

Blackst.
Comment.

By the tenure of knight-service, the greatest part of the lands in England were holden, and that principally of the king *in capite*, till the middle of the last century; and which was created, as Sir Edward Coke expressly testifies, for a military purpose, viz. for defence of the realm by the king's own principal subjects, which was judged to be much better than to trust to hirelings or foreigners. The description here given is that of knight-service proper, which was to attend the king in his wars. There were also some other species of knight-service; so called, though improperly, because the service or render was of a free and honourable nature, and equally uncertain as to the time of rendering as that of knight-service proper, and because they were attended with similar fruits and consequences. Such was the tenure by *grand serjeanty*, *per magnum servitium*, whereby the tenant was bound, instead of serving the king generally in his wars, to do some special honorary service to the king in person; as to carry his banner, his sword, or the like; or be his butler, champion, or other officer, at his coronation. It was, in most other respects, like knight-service, only he was not bound to pay aid or escuage; and when tenant by knight-service paid five pounds for a relief on every knight's fee, tenant by grand-

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serjeanty paid one year's value of his land, were it much or little. Tenure by *cornage*, which was to wind a horn when the Scots or other enemies entered the land, in order to warn the king's subjects, was (like other services of the same nature) a species of grand-serjeanty.

These services, both of chivalry and grand-serjeanty, were all personal, and uncertain as to their quantity or duration. But the personal attendance in knight-service growing troublesome and inconvenient in many respects, the tenants found means of compounding for it, by first sending others in their stead, and in process of time making a pecuniary satisfaction to the lords in lieu of it. This pecuniary satisfaction at last came to be levied by assessments, at so much for every knight's fee; and therefore this kind of tenure was called *scutagium* in Latin, or *servitium scuti*; *scutum* being then a well-known denomination of money; and in like manner it was called, in our Norman French, *escuage*; being indeed a pecuniary instead of a military service. The first time this appears to have been taken, was in the 5 Hen. II. on account of his expedition to Toulouse; but it soon came to be so universal, that personal attendance fell quite into disuse. Hence we find in our ancient histories, that, from this period when our kings went to war, they levied scutages on their tenants, that is on all the landholders of the kingdom, to defray their expences and to hire troops: and these assessments in the time of Henry II. seem to have been made arbitrarily, and at the king's pleasure. Which prerogative being greatly abused by his successors, it became matter of national clamour; and King John was obliged to consent, by his *magna carta*, that no scutage should be imposed without consent of parliament. But this clause was omitted in his son Henry III.'s charter; where we only find, that scutages or escuage should be taken as they were used to be taken in the time of Henry II.; that is, in a reasonable and moderate manner. Yet afterwards, by statute 25 Edw. I. c. 5. & 6. and many subsequent statutes, it was enacted, that the king should take no aids or tasks but by the common assent of the realm. Hence it is held in our old books, that escuage or scutage could not be levied but by consent of parliament; such scutages being indeed the groundwork of all succeeding subsidies, and the land-tax of later times.

Since, therefore, escuage differed from knight-service in nothing but as a compensation differs from actual service, knight-service is frequently confounded with it. And thus Littleton must be understood, when he tells us, that tenant by homage, fealty, and escuage, was tenant by knight-service: that is, that this tenure (being subservient to the military policy of the nation) was respected as a tenure in chivalry. But as the actual service was uncertain, and depended upon emergencies, so it was necessary that this pecuniary com-

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sufficiency to maintain the dignity, and were thence disposed not to take it. The idea that the whole force of the royal army consisted of knights of honour, or dubbed knights, is so extraordinary a circumstance, that it might have shown of itself to this eminent writer the source of his error. Had every soldier in the feudal army received the investiture of arms? could he wear a seal, surpass in silk and dress, use ensigns-armorial, and enjoy all the other privileges of knighthood? But, while I hazard these remarks, my reader will observe, that it is with the greatest deference I dissent from Sir William Blackstone, whose abilities are the object of a most general and deserved admiration."

Knight.

Knights.

compensation should be equally uncertain, and depend on the assessments of the legislature suited to those emergencies. For had the escuage been a settled invariable sum, payable at certain times, it had been neither more nor less than a mere pecuniary rent; and the tenure, instead of knight-service, would have then been of another kind, called *SOCAGE*.

By the degenerating of knight-service, or personal military duty, into escuage or pecuniary assessments, all the advantages (either promised or real) of the feudal constitutions were destroyed, and nothing but the hardships remained. Instead of forming a national militia composed of barons, knights, and gentlemen, bound by their interest, their honour, and their oaths, to defend their king and country, the whole of this system of tenures now tended to nothing else but a wretched means of raising money to pay an army of occasional mercenaries. In the mean time the families of all our nobility and gentry groaned under the intolerable burdens which (in consequence of the fiction adopted after the conquest) were introduced and laid upon them by the subtlety and finesse of the Norman lawyers. For, besides the scutages to which they were liable in defect of personal attendance, which, however, were assessed by themselves in parliament, they might be called upon by the king or lord paramount for *aids*, whenever his eldest son was to be knighted, or his eldest daughter married; not to forget the ransom of his own person. The heir, on the death of his ancestor, if of full age, was plundered of the first emoluments arising from his inheritance, by way of *relief* and *primer seisin*; and if under age, of the whole of his estate during infancy. And then, as Sir Thomas Smith very feelingly complains, "when he came to his own, after he was out of *wardship*, his woods decayed, houses fallen down, stock wasted and gone, lands let forth and ploughed to be barren," to make amends, he was yet to pay half a year's profits as a fine for suing out his *livery*; and also the price or value of his *marriage*, if he refused such wife as his lord and guardian had bartered for, and imposed upon him; or twice that value, if he married another woman. Add to this, the untimely and expensive honour of *knighthood*, to make his poverty more completely splendid. And when, by these deductions, his fortune was so shattered and ruined, that perhaps he was obliged to sell his patrimony, he had not even that poor privilege allowed him, without paying an exorbitant fine for a *licence of alienation*.

A slavery so complicated and so extensive as this, called aloud for a remedy in a nation that boasted of her freedom. Palliatives were from time to time applied by successive acts of parliament, which assuaged some temporary grievances. Till at length the humanity of King James I. consented, for a proper equivalent, to abolish them all, though the plan then proceeded not to effect; in like manner as he had formed a scheme, and began to put it in execution, for removing the feudal-grievance of heritable jurisdictions in Scotland, which has since been pursued and effected by the statute 20 Geo. II. c. 43. King James's plan for exchanging our military tenures seems to have been nearly the same as that which has been since pursued; only with this difference, that by way of compensation for the loss which the crown and other lords

would sustain, an annual fee-farm rent should be settled and inseparably annexed to the crown, and assuaged to the inferior lords, payable out of every knight's fee within their respective feignories. An expedient, seemingly much better than the hereditary excise which was afterwards made the principal equivalent for these concessions. For at length the military tenures, with all their heavy appendages, were destroyed at one blow by the statute 12 Car. II. c. 24. which enacts, "that the court of ward or liveries, and all wardships, liveries, primer seisms, and ousterlemains, values and forfeitures of marriages, by reason of any tenure of the king or others, be totally taken away. And that all fines for alienations, tenures by homage, knights-service, and escuage, and also aids for marrying the daughter or knighting the son, and all tenures of the king *in capite*, be likewise taken away. And that all sorts of tenures, held of the king or others, be turned into free and common socage; save only tenures in frankalmoign, copyholds, and the honorary services (without the slavish part) of grand-serjeanty." A statute which was a greater acquisition to the civil property of this kingdom than even *magna carta* itself: since that only pruned the luxuries that had grown out of the military tenures, and thereby preserved them in vigour; but the statute of King Charles extirpated the whole, and demolished both root and branches.

KNIGHTS-Errant. During the prevalence of chivalry, the ardour of redressing wrongs seized many knights so powerfully, that, attended by esquires, they wandered about in search of objects whose misfortunes and misery required their assistance and succour. And as ladies engaged more particularly their attention, the relief of unfortunate damsels was the achievement they most courted. This was the rise of knights-errant, whose adventures produced romance. These were originally told as they happened. But the love of the marvellous came to interfere; fancy was indulged in her wildest exaggerations; and poetry gave her charms to the most monstrous fictions, and to scenes the most unnatural and gigantic. See *KNIGHT*.

KNIGHT-Bachelor. See *BACHELOR*.

KNIGHT-Baronet. See *BARONET*.

KNIGHTS of the Shire, or *Knights of Parliament*, are two gentlemen of worth, chosen on the king's writ in *pleno comitatu*, by such of the freeholders of every county as can expend 40 s. *per annum*, to represent such county in parliament. These, when every man who held a knights-fee *in capite* of the crown was customarily constrained to be a knight, were of necessity to be *milites gladio cincti*, for so the writ runs to this day; but now custom admits esquires to be chosen to this office. They must have at least 500 l. *per annum*; and their expences are to be defrayed by the county, though this be seldom now required.

KNIGHT-Marshal, an officer in the king's household, who has jurisdiction and cognizance of any transgression within the king's household and verge; as also of contracts made there, whereof one of the house is party.

KNIGHTS, in a ship, two short thick pieces of wood, commonly carved like a man's head, having four shivers in each, three for the halyards, and one for the

**Knight-
hood,**
Knightlow.

top to run in: one of them stands fast bolted on the beams abaft the foremast, and is therefore called the *fore-knight*; and the other, standing abaft the main-mast, is called the *main-knight*.

KNIGHTHOOD, a military order or honour, or a mark or degree of ancient nobility, or reward of personal virtue and merit.

There are four kinds of knighthood; military, regular, honorary, and social.

Military KNIGHTHOOD, is that of the ancient knights, who acquired it by high feats of arms. They are called *milites*, in ancient charters and titles, by which they were distinguished from mere bachelors, &c. These knights were girt with a sword, and a pair of gilt spurs; whence they were called *equites aurati*.

Knighthood is not hereditary, but acquired. It does not come into the world with a man like nobility; nor can it be revoked. The sons of kings, and kings themselves, with all other sovereigns, heretofore had knighthood conferred on them as a mark of honour. They were usually knighted at their baptism or marriage, at their coronation, before or after a battle, &c.

Regular KNIGHTHOOD, is applied to all military orders which profess to wear some particular habit, to bear arms against the infidels, to succour and assist pilgrims in their passage to the Holy Land, and to serve in hospitals where they should be received; such were the knights templars, and such still are the knights of Malta, &c.

Honorary KNIGHTHOOD, is that which princes confer on other princes, and even on their own great ministers and favourites; such are knights of the Garter, Bath, St Patrick, Nova Scotia, Thistle, &c. See these articles; and for a representation of their different insignia, see Plate CCLVIII.

Social KNIGHTHOOD, is that which is not fixed nor confirmed by any formal institution, nor regulated by any lasting statutes; of which kind there have many orders been erected on occasion of factions, of tilts and tournaments, masquerades, and the like.

The abbot Bernardo Justiniani, at the beginning of his History of Knighthood, gives us a complete catalogue of the several orders: according to this computation, they are in number 92. Favon has given us two volumes of them under the title of *Theatre d'Honneur & de Chevalerie*. Menenius has published *Deliciae Equestrum Ordinum*, and Andr. Mendo has written *De Ordinibus Militaribus*. Beloi has traced their original; and Geliot, in his Armorial Index, has given us their institutions. To these may be added, Father Menestrier de la Chevalerie Ancienne & Moderne, Michieli's *Tresor Militaire*, Caramuel's *Theologia Regolare*, Miræus's *Origines Equestrum sive Militarum Ordinum*: but above all, Justinian's *Historie Chronologiche dell'Origine de gl Ordine Militari, e di tutte le Religione Cavaleresche*; the edition which is fullest is that of Venice in 1692, in two vols. fol.

KNIGHTFLOW HILL, or **CROSS**, which gives name to a hamlet in Warwickshire, stands in the road from Coventry to London, at the entrance of Dunsmore-Heath. About 40 towns in this hamlet, which are specified by Dugdale, are obliged, on the forfeiture of 30 s. and a white bull, to pay a certain rent to the lord of the hamlet, called *wroth-money*, or *swarf-penny*; which must

be deposited every Martinmas-day in the morning at this cross before sun-rise; when the party paying it must go thrice about the cross, and say the wroth-money, and then lay it in the hole of the said cross before good witness.

KNIGHTON, a well-built town of Radnorshire in South Wales, 155 miles from London. It is pleasantly situated on an elevation rising from a small river, which divided this part of Wales from Shropshire. It carries on a considerable trade, and has a market and a fair.

KNIGHTSBRIDGE, a village of Middlesex, and the first village from London in the great western road. It lies in the parishes of St Margaret's Westminster, and St George by Hanover-Square; and has a chapel, which is nevertheless independent. At the entrance of it from London stands that noble infirmary for sick and wounded, called *St George's Hospital*, erected and maintained by the contributions of our nobility and gentry, of whom there are no less than 300 governors. In the centre of this village, there is a fabric lately erected, where is carried on one of the most considerable manufactures in England for painting floor-cloths, &c.

KNOCTOPHER, a borough and market town of Ireland in the county of Kilkenny and province of Leinster, 63 miles from Dublin. It returns two members to parliament; patronage in the families of Langrishe and Ponsonby.

KNOLL, a term used in many parts of the kingdom for the top of a small hill, or for the hill itself.

KNOLLES (Richard), was born in Northamptonshire, about the middle of the 16th century, and educated at Oxford, after which he was appointed master of the free-school at Sandwich in Kent. He composed *Grammaticæ Latinæ, Græcæ, et Hebraicæ, compendium, cum radicibus*, London 1606; and sent a great number of well-grounded scholars to the universities. He also spent 12 years in compiling a history of the Turks; which was first printed in 1610, and by which he has perpetuated his name. In the later editions it is called, *The general history of the Turks, from the first beginning of that nation to the rising of the Ottoman family*, &c. He died in 1610, and this history has been since continued by several hands: the best continuation is that by Paul Ricaut consul at Smyrna, folio, London 1680. Knolles wrote also, "The lives and conquests of the Ottoman kings and emperors to the year 1610;" which was not printed till after his death in 1621, to which time it was continued by another hand; and lastly, "A brief discourse of the greatness of the Turkish empire, and wherein the greatness of the strength thereof consisteth, &c."

KNOT, a part of a tree, from which shoots out branches, roots, or even fruit. The use of the knots is, to strengthen the stem; they serve also as scarces, to filtrate, purify, and refine the juices raised up for the nourishment of the plant.

KNOTS of a Rope, among seamen, are distinguished into three kinds, viz. whole-knot, that made so with the lays of a rope that it cannot slip, serving for sheets, tacks, and stoppers: bow-line knot, that so firmly made and fastened to the cringles of the sails, that they must break or the sail split before it slips:

and

Knigh-ton
Knots.

Knots
||
Knox.

and sheep-shank knot, that made by shortening a rope without cutting it, which may be presently loosened, and the rope not the worse for it.

KNOTS of the Log-line, at sea, are the divisions of it. See the article LOG.

KNOT, in ornithology. See TRINGA.

KNOT-Grass, or *Bisfort*. See POLYGONUM.

KNOT (Edward), born in Northumberland in England, entered among the Jesuits at the age of 26, being already in priest's orders. This happened in the year 1606. He taught a long time at Rome in the English college; and was afterwards appointed sub-provincial of the college of England, and was sent provincial thither. He was twice honoured with that employment. He was present as provincial at the general assembly of the order of the Jesuits held at Rome in 1646, and was chosen definitor. He died in 1696. He published several pieces; among the rest, *Mercy and Truth*, or *Charity maintained by the Catholics*; against Dr Potter, who had charged the church of Rome with wanting charity, because she asserts that a man cannot be saved in the Protestant communion.

KNOTTESFORD, a town of Cheshire, near the Mersey, 184 miles from London, is divided into the upper and lower towns by a rivulet called *Bicken*. In the former is the church; and in the latter is a chapel of ease, the market and town-house. It has a market and three fairs.

KNOTTINGLEY, a town in the west riding of Yorkshire, on the Aire near Ferrybridge, is noted for its merchandize in lime. The stones of which it is made are dug up plentifully at Elmet, and here burnt; from whence it is conveyed at certain seasons in great quantities to Wakefield, Sandal, and Standbridge, for sale, and so carried into the western parts of the county for manure.

KNOUT, the name of a punishment inflicted in Russia, with a kind of whip called *knout*, and made of a long strap of leather prepared for this purpose. With this whip the executioners dexterously carry off a slip of skin from the neck to the bottom of the back laid bare to the waist, and repeating their blows, in a little while rend away all the skin off the back in parallel strips. In the common knout the criminal receives the lashes suspended on the back of one of the executioners: but in the great knout, which is generally used on the same occasions as racking on the wheel in France, the criminal is raised into the air by means of a pulley fixed to the gallows, and a cord fastened to the two wrists tied together; a piece of wood is placed between his two legs also tied together; and another of a crucial form under his breast. Some times his hands are tied behind over his back; and when he is pulled up in this position, his shoulders are dislocated. The executioners can make, this punishment more or less cruel: and it is said, are so dexterous, that when a criminal is condemned to die, they can make him expire at pleasure either by one or several lashes.

KNOWLEDGE, is defined by Mr Locke to be the perception of the connection and agreement or disagreement and repugnancy of our ideas. See METAPHYSICS and LOGIC.

KNOX (John), the hero of the reformation in Scotland, was born in 1505, at Gifford near Haddington in East Lothian; and educated at the university of

St Andrew's, where he took a degree in arts, and commenced teacher very early in life. At this time the new religion of Martin Luther was but little known in Scotland; Mr Knox therefore at first was a zealous Roman-catholic: but attending the sermons of a certain black friar, named *Guilliam*, he began to waver in his opinions; and afterwards conversing with the famous Wishart, who in 1544 came to Scotland with the commissioners sent by Henry VIII. he renounced the Romish religion, and became a zealous reformer. Being appointed tutor to the sons of the lairds of Ormiston and Langniddery, he began to instruct them in the principles of the Protestant religion; and on that account was so violently persecuted by the bishop of St Andrew's, that with his two pupils he was obliged in the year 1547 to take shelter in the castle of that place. But the castle was besieged and taken by 21 French galleys. He continued a prisoner on board a galley two years, namely, till the latter end of the year 1549; when being set at liberty, he landed in England, and having obtained a licence, was appointed preacher, first at Berwick, and afterwards at Newcastle. Strype conjectures that in 1552 he was appointed chaplain to Edward VI. He certainly obtained an annual pension of 40 l. and was offered the living of All-hallows in London; which he refused, not choosing to conform to the liturgy.

Soon after the accession of Queen Mary, he retired to Geneva; whence, at the command of John Calvin, he removed to Francfort, where he preached to the exiles: but a difference arising on account of his refusing to read the English liturgy, he went back to Geneva; and from thence in 1555 returned to Scotland, where the reformation had made considerable progress during his absence. He now travelled from place to place, preaching and exhorting the people with unremitting zeal and resolution. About this time (1556), he wrote a letter to the queen regent, earnestly intreating her to hear the Protestant doctrine; which letter she treated with contempt. In the same year the English Calvinists at Geneva invited Mr Knox to reside among them. He accepted their invitation. Immediately after his departure from Scotland, the bishop summoned him to appear, and he not appearing, condemned him to death for heresy, and burnt his effigy at the cross of Edinburgh.

Our reformer continued abroad till the year 1559, during which time he published his "First blast against the monstrous regiment of women." Being now returned to Scotland, he resumed the great work of reformation with his usual ardour, and was appointed minister at Edinburgh. In 1561 Queen Mary arrived from France. She, it is well known, was bigotted to the religion in which she had been educated; and on that account was exposed to continual insults from her reformed subjects. Mr Knox himself frequently insulted her from the pulpit; and when admitted to her presence, regardless of her sex, her beauty, and her high rank, behaved to her with a most unjustifiable freedom. In the year 1571 our reformer was obliged to leave Edinburgh, on account of the confusion and danger from the opposition to the earl of Lenox, then regent; but he returned the following year, and resumed his pastoral functions. He died at Edinburgh in November 1572, and was buried in the church-yard

Knox.

Knox
||
Knutzen.

of St Giles's in that city.—His History of the Reformation was printed with his other works at Edinburgh in 1584, 1586, 1644, 1732. He published many other pieces; and several more are preserved in Calderwood's History of the Church of Scotland. He left also a considerable number of manuscripts, which in 1732 were in the possession of Mr Woodrow, minister of Eastwood.

As to his character, it is easily understood, notwithstanding the extreme dissimilitude of the two portraits drawn by Popish and Calvinistical pencils. According to the first, he was a devil; in the ideas of the latter, an angel. He was certainly neither. The following character is drawn by Dr Robertson. "Zeal, intrepidity, disinterestedness, were virtues that he possessed in an eminent degree. He was acquainted too with the learning cultivated in that age; and excelled in that species of eloquence which is calculated to rouse and to inflame. His maxims, however, were often too severe, and the impetuosity of his temper excessive. Rigid and uncomplying, he showed no indulgence to the infirmities of others. Regardless of the distinctions of rank and character, he uttered his admonitions with an acrimony and vehemence more apt to irritate than to reclaim; and this often betrayed him into indecent expressions, with respect to Queen Mary's person and conduct. Those very qualities, however, which now render his character less amiable, fitted him to be the instrument of Providence for advancing the reformation among a fierce people, and enabled him to face dangers, and to surmount opposition, from which a person of a more gentle spirit would have been apt to shrink back. By an unwearied application to study and to business, as well as by the frequency and fervour of his public discourses, he had worn out a constitution naturally strong. During a lingering illness, he discovered the utmost fortitude; and met the approach of death with a magnanimity inseparable from his character. He was constantly employed in acts of devotion, and comforted himself with those prospects of immortality, which not only preserve good men from desponding, but fill them with exultation in their last moments. The earl of Morton, who was present at his funeral, pronounced his eulogium in a few words, the more honourable for Knox, as they came from one whom he had often censured with peculiar severity; "Here lies he who never feared the face of man."

KNOXIA, in botany: A genus of the monogynia order, belonging to the tetrandria class of plants; and in the natural method ranking under the 47th order, *Stellata*. The corolla is monopetalous, and funnel-shaped; there are two furrowed seeds; the calyx has one leaf larger than the rest.

KNUTZEN (Matthias), a native of Holstein, the only person on record who openly professed and taught atheism. It is said he had about 1000 disciples in different parts of Germany. They were called *Conscienciaries*, because they asserted there is no other God, no other religion, no other lawful magistracy, but conscience, which teaches every man the three fundamental principles of the law of nature:—To hurt nobody, to live honestly, and to give every one his due. Several copies of a letter of his from Rome were spread abroad, containing the substance of his

system. It is to be found entire in the last edition of Micraelius.

KOEDOE. See CAPRA.

KOEI-TCHEOU, a province of China, and one of the smallest in the kingdom. On the south it has Quang-si, on the east Hou-quang, on the north Setchuen, and Yun-nan on the west. The whole country is almost a desert, and covered with inaccessible mountains: it may justly be called the *Siberia* of China. The people who inhabit it are mountaineers, accustomed to independence, and who seem to form a separate nation: they are no less ferocious than the savage animals among which they live.—The mandarins and governors who are sent to this province are sometimes disgraced noblemen, whom the emperor does not think proper to discard entirely, either on account of their alliances, or the services which they have rendered to the state: numerous garrisons are entrusted to their charge, to over-awe the inhabitants of the country; but these troops are found insufficient, and the court despairs of being ever able thoroughly to subdue these untractable mountaineers.—Frequent attempts have been made to reduce them to obedience, and new forts have from time to time been erected in their country; but the people, who are not ignorant of those designs, keep themselves shut up among their mountains, and seldom issue forth but to destroy the Chinese works or ravage their lands.—Neither silk-stuffs nor cotton-cloths are manufactured in this province; but it produces a certain herb much resembling our hemp, the cloth made of which is used for summer dresses. Mines of gold, silver, quicksilver, and copper, are found here; of the last metal, those small pieces of money are made which are in common circulation throughout the empire.—Koei-tcheou contains 10 cities of the first class, and 38 of the second and third.

KOEMPFER (Engelbert), was born in 1651 at Lemgow in Westphalia. After studying in several towns, he went to Dantzick, where he gave the first public specimen of his proficiency by a dissertation *De majestatis divisione*. He then went to Thorn; and from thence to the university of Cracow, where he took his degree of doctor in philosophy; after which he went to Koningsberg in Prussia, and staid there four years. He next travelled into Sweden, where he soon began to make a figure, and was appointed secretary of the embassy to the sophi of Persia. He set out from Stockholm with the presents for that emperor; and went through Aaland, Finland, and Ingermanland, to Narva, where he met Mr Fabricius the ambassador, who had been ordered to take Moscow in his way. The ambassador having ended his negotiations at the Russian court, set out for Persia. During their stay, two years, at Ispahan, Dr Kœmpfer, whose curious and inquisitive disposition suffered nothing to escape him unobserved, made all the advantages possible of so long an abode in the capital of the Persian empire. The ambassador, towards the close of 1685, preparing to return into Europe, Dr Kœmpfer chose rather to enter into the service of the Dutch East India company, in quality of chief surgeon to the fleet, then cruising in the Persian Gulph. He went aboard the fleet, which, after touching at many Dutch settlements, came to Batavia in September 1689. Dr Kœmpfer here

Koedoe
||
Koempfer.

Order of the Garter.



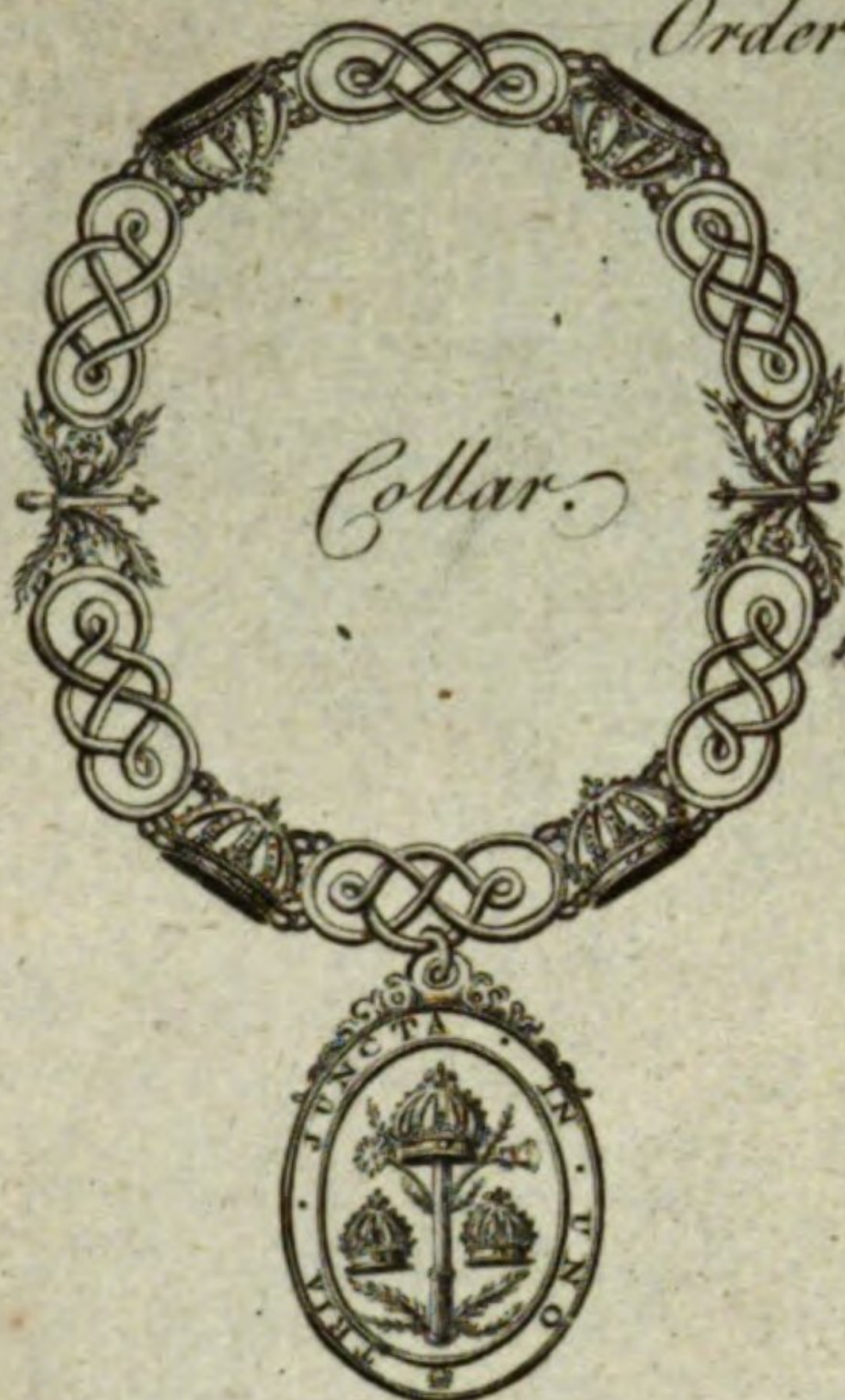
Star.



Jewel.



Order of the Bath.



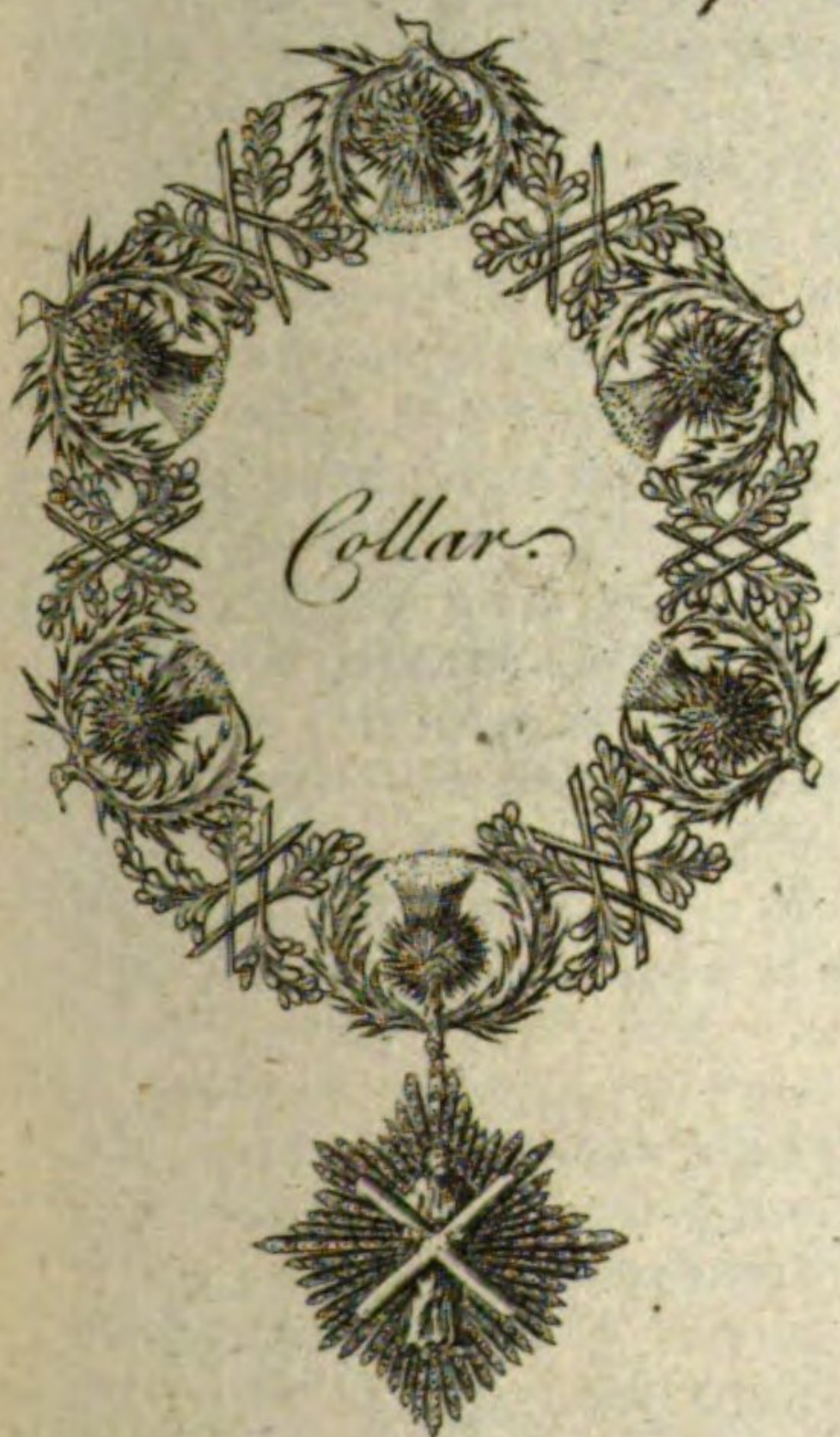
Star.



Jewel.



Order of the Thistle.



Star.



Jewel.



Order of St. Patrick.



Star.



Jewel.



Baronet of Nova Scotia.



Baronet of England.



Kempferia
Kongsberg.

here applied himself chiefly to natural history. Hence he set out for Japan, in quality of physician to the embassy which the Dutch East India company sends once a year to the Japanese court. He quitted Japan to return to Europe in 1692. In 1694 he took his degree of doctor of physic at Leyden; on which occasion he communicated, in what are called *Inaugural Theses*, ten very singular and curious observations made by him in foreign countries. He intended to digest his memoirs into proper order; but was prevented, by being made physician to the count de Lippe. He died in 1716. His principal works are, 1. *Amanitates Exoticae*, in 4to; a work which includes many curious and useful particulars in relation to the civil and natural history of the countries through which he passed. 2. *Herbarium Ultra-Gaeticum*. 3. The history of Japan, in German, which is very curious and much esteemed; and for which the public is indebted to the late Sir Hans Sloane, who purchased for a considerable sum of money all our author's curiosities, both natural and artificial, as likewise all his drawings and manuscript memoirs, and prevailed with the late learned Dr Scheuchzer to translate the Japanese history into English.

KÆMPFERIA. See KEMPFERIA.

KOENIG (Samuel), a learned philosopher and mathematician, was professor of philosophy at Franeker, and afterwards at the Hague, where he became librarian to the Stadtholder, and died there in 1757. He wrote several works which are esteemed.

KOENIGIA, in botany; a genus of the trigynia order, belonging to the triandria class of plants. The calyx is triphyllous; there is no corolla; and but one ovate and naked seed.

KONGSBERG, a town of Norway, belonging to Denmark, and celebrated for its silver mines, whose produce has been considerably exaggerated by most of the travellers that have published on this subject. The town, which stretches on both sides the river Lowe, contains about 1000 houses, and including the miners 6000 inhabitants. The mines, which lie about two miles from the town, were first discovered and worked during the reign of Christian IV.; and of their present state the following account is given by Mr Coxe†.

† Travels
into Poland,
&c. vol. v.
p. 234.

There are 36 mines now working; the deepest whereof called *Segen-Gottes in der North*, is 652 feet perpendicular. The matrix of the ore is the saxum of Linnæus. The silver is extracted according to the usual process, either by smelting the ore with lead or by pounding. The pure silver is occasionally found in small grains and in small pieces of different sizes, seldom weighing more than four or five pounds. Sometimes, indeed, but extremely rare, masses of a considerable bulk have been discovered; and one in particular which weighed 409 marks, and was worth 3000 rix-dollars, or 600l. This piece is still preserved in the cabinet of curiosities at Copenhagen. Formerly these mines produced annually 350,000 rix-dollars, or 70,000l.; and in 1769, even 79,000l.; at present they seldom yield only from 50,000l. to 54,000l. Formerly above 4000 men were necessary for working the mines, smelting and preparing the ore; but a few years ago 2400 miners were removed to the cobalt works lately established at Fossum and to other mines, and the number is now reduced to 2500. By these

and other reductions, the expence, which was before estimated at 5760l. *per month*, now amounts to only 4400l. or about 52,800l. *per annum*. Yet even with this diminution the expences generally equal, and sometimes exceed, the profits. Government, therefore, draws no other advantage from these mines, than by giving employment to so many persons, who would be otherwise incapable of gaining their livelihood, and by receiving a certain quantity of specie, which is much wanted in the present exhausted state of the finances in Denmark. For such is the deficiency of specie, that even at Kongsberg itself change for a bank note is with difficulty obtained. The miners are paid in small bank notes, and the whole expences are defrayed in paper currency. The value of 13,000 rix-dollars, or 2600l. in block silver is annually sent to Copenhagen; the remainder of the ore is coined in the mint of Kongsberg, and transferred to Copenhagen. The largest piece of money now struck at Kongsberg is only eight skillings or four pence.

KONIG (George Matthias), a learned German, born at Altorf in Franconia in 1616. He became professor of poetry and of the Greek tongue there, and librarian to the university; in which last office he succeeded his father. He gave several public specimens of his learning; but is principally known for a Biographical Dictionary, intitled, *Bibliotheca vetus et nova*, 4to, Altorf, 1674: which, though it is very defective, is useful to biographers. He died in 1699.

KONIG (Emanuel), a learned physician of Basil, born in that city in 1658, whose medicinal works were so esteemed in Switzerland, that he was considered as a second Avicenna. He died at Basil in 1731.

KONINGSBERG, a town of Poland, and capital of Regal Prussia, with a magnificent palace, in which is a hall 274 feet long and 59 broad without pillars to support it, and a handsome library. It is about five miles in circumference; and including the garrison of 7000 men contains 60,000 inhabitants. The town-house, the exchange, and the cathedral church, are all very fine structures. The tower of the castle is exceeding high; and has 284 steps to go to the top, from whence there is a very distant prospect. There are 18 churches in all; of which 14 belong to the Lutherans, three to the Calvinists, and one to the Papists. It stands on the Pregel, a navigable river which flows from the north-western provinces of Poland, and here falls into the eastern extremity of the Frische Haf, an inlet of the Baltic. No ships drawing more than seven feet water can pass the bar and come up to the town; so that the large vessels anchor at Pillau, a small town on the Baltic, which is the port of Königsberg; and the merchandise is sent in smaller vessels to this place. Its trade is very considerable.—Königsberg contains an university founded by Albert of Brandenburg. According to the original endowment there were 40 professors; but their number is now reduced to 16. Each professor receives a salary of about 50l. *per annum*, which may be increased by private lectures. In 1775, the university contained 800 students, of whom 200 are lodged and boarded at the expence of the crown. There are three public libraries in the town, the royal or university library, the town library, and the *Wallenrodt library*, so called because it was given by Martien von Wallenrodt, in 1650. E. L. 21. 35. N. L. 54. 43.

König,
Königsberg

KORAN

Koran
||
Kotterus.

KORAN, or ALCORAN. See ALCORAN and MAHOMETANISM.

KOREKI, the country of the Koriacs. See the next article.

KORIACS, a people inhabiting the northern part of Kamtchatka, and all the coast of the Eastern Ocean from thence to the Anadir.—They are divided into the Rein-deer or Wandering Koriacs, and the Fixed Koriacs. The former lead an erratic life, in the tract bounded by the Penschinka sea to the south-east, the river Kowyma to the west, and the river Anadir to the north. They wander from place to place with their rein-deer, in search of the moss, the food of those animals, which are their only wealth. They are squalid, cruel, and warlike; the terror of the Fixed Koriacs as much as the Tschutski are of them. They never frequent the sea, nor live on fish. Their habitations are jouts, or places half sunk in the earth; and they never use balagans or summer-houses elevated on posts like the Kamtchatkans. They are in their persons lean, and very short; have small heads and black hair, which they shave frequently: their faces are oval; their nose is short; their eyes are small; their mouth is large; and their beard black and pointed, but often eradicated.—The fixed Koriacs are likewise short; but rather taller than the others, and strongly made: the Anadir is also their boundary to the north, the ocean to the east, and the Kamtchatkans to the south. They have few rein-deer, which they use in their sledges; but neither of the tribes of Koriacs are civilized enough to apply them to the purposes of the dairy. Each speak a different dialect of the same language: but the Fixed in most things resemble the Kamtchatkans; and, like them, live almost entirely on fish. They are timid to a high degree, and behave to their wandering brethren with the utmost submission; who call them by a name which signifies *their slaves*. These poor people seem to have no alternative; for, by reason of the scarcity of rein-deer, they depend on these tyrants for the essential article of cloathing.—These two nations Mr Pennant supposes, from their features, to be the offspring of Tartars, which have spread to the east, and degenerated in size and strength by the rigour of the climate, and often by scarcity of food.

KOS, in Jewish antiquity, a measure of capacity, containing about four cubic inches: this was the cup of blessing out of which they drank when they gave thanks after solemn meals, like that of the passover.

KOTTERUS (Christopher), was one of the three fanatics whose visions were published at Amsterdam in 1657, with the title of *Lux in tenebris*. He lived at Sprotta in Silesia, and his visions began in 1616. He fancied he saw an angel under the form of a man, who commanded him to go and declare to the magistrates, that, unless the people repented, the wrath of God would make dreadful havock. The elector palatine, whom the Protestants had declared king of Bohemia, was introduced in these visions. Kotterus waited on him at Breslaw in December 1620, and informed him of his commission. He went to several other places, and at last to the court of Brandenburg. As most of these predictions promised felicity to the elector palatine, and unhappiness to his imperial majesty, the emperor's fiscal in Silesia and Lusatia got

him seized, set on the pillory, and banished the emperor's dominions. Upon this he went to Lusatia, and there lived unmolested till his death, which happened in 1647.

KOU-CHU, a Chinese shrub, which bears a great resemblance to the fig-tree both in the make of its branches and the form of its leaves. From its root several twigs or shoots generally spring up, which form a kind of bush; but sometimes it consists of only one shoot. The wood of the branches of the kou-chu is soft and spongy, and covered with bark like that of the fig-tree. Its leaves are deeply indented, and their colour and the texture of their fibres are exactly the same as those of the fig-tree; but they are larger and thicker, and much rougher to the touch.

This tree yields a kind of milky juice, which the Chinese use for laying on gold-leaf in gilding. They make one or more incisions in the trunk, into which they insert the edges of a shell, or something else of the same kind, to receive the sap. When they have extracted a sufficiency, they use it with a small brush, and delineate whatever figures they intend for the decoration of their work. They then lay on the gold-leaf, which is so strongly attracted by this liquor, that it never comes off.

KOUANIN, in the Chinese language, the name of a tutelary deity of women. The Chinese make great numbers of the figures of this deity in white porcelain, and send them to all parts of the world, as well as keep them in their own houses. The figure represents a woman with a child in her arms. The women who have no children pay a sort of adoration to these images, and suppose the deity they represent to have power to make them fruitful. The statue always represents a handsome woman very modestly attired.

KOUC, or КОЕК (Peter), an excellent painter in the 16th century, was born at Aloft, and was the disciple of Bernard Van Orley, who lived with Raphael. He went to Rome; and by studying the beautiful pieces which he found there, formed an excellent taste, and became a very correct designer. On his return to his own country, he undertook the office of directing the execution of some tapestry-work after the designs of Raphael. He was afterwards persuaded by some merchants of Brussels to undertake a voyage to Constantinople; but when he came there, finding that the Turks were not allowed by their religion to draw any figure, and that there was nothing for him to do but to draw designs for tapestry, he spent his time in designing the particular prospects in the neighbourhood of Constantinople, and the manner of the Turks living; of which he has left many wooden cuts, that alone suffice to give an idea of his merit. After his return from Constantinople he settled at Antwerp, where he drew several pictures for the emperor Cha. V. He was also a good architect; and, in the latter part of his life, wrote A Treatise of Sculpture, Geometry, and Perspective; and translated Vitruvius and Serliv into the Flemish tongue. He died in 1550.

KOULI-KHAN (Thomas), or *Schah Nadir*, was not the son of a shepherd, as the authors of the English Biographical Dictionary assert; his father being chief of a branch of the tribe of Affchars, and governor of a fortress erected by that people against the Turks. Upon his father's death, his uncle usurped his

Kou-chu
||
Kouli-khan

Grosier's
China, vol. 1.
p. 486.

Kouli-khan, his government, under the pretext of taking care of it during the minority of Kouli-Khan; or, more properly, young Nadir. Disgust at this affront made him commence adventurer. He entered into the service of Beglerberg, governor of Muschada, in the Khorasan; who, discovering in him strong marks of a military genius, promoted him to the command of a regiment of cavalry. In 1720, the Usbec Tartars having made an irruption into the Khorasan with 10,000 men, Beglerberg, whose whole force consisted only of 4000 horse and 2000 infantry, called a council of war, in which it was declared imprudent to face the enemy with such an inferior force: but Kouli-Khan proposed to march against the enemy, and engaged to conduct the expedition, and to be answerable for the success of it. He was accordingly made general; defeated the Tartars, and took their commander prisoner. Hoſſein Beglerberg received him at his return with marks of distinction: but growing jealous of his rising fame, instead of obtaining him the rank of lieutenant-general of the Khorasan, as he had promised, obtained it for another; which so exasperated Kouli-Khan, that he publicly complained of the governor's ingratitude and perfidy; who thereupon broke him, and ordered him to be punished with the bastinado so severely, that the nails of his great toes fell off. This affront occasioned his flight, and his joining a banditti of robbers (not his stealing his father's or his neighbour's sheep). The rest of his adventures are too numerous to be inserted in this work. In 1729 he was made general of Persia by Schah Thamas, and permitted to take his name *Thamas*, and that of *Khuli*, which signifies *slave*: his title therefore was, *The slave of Thamas*; but he was ennobled by the addition of *Khan*. In 1736, he fomented a revolt against his master, for having made an ignominious peace with the Turks; and having the army at his command, he procured his deposition, and his own advancement to the throne. In 1739 he conquered the Mogul empire; and from this time growing as cruel as he was ambitious, he at length met with the usual fate of tyrants, being assassinated by one of his generals, in league with his nephew and successor, in 1747, aged sixty.

KOUMISS, a sort of wine made in Tartary, where it is used by the natives as their common beverage during the season of it, and often serves them instead of all other food. It is said to be so nourishing and salutary, that the Baschkir Tartars, who towards the end of winter are much emaciated, no sooner return in summer to the use of koumifs, than they become strong and fat. The author of "A historical description of all the nations which compose the Russian empire," says, speaking of Koumifs, *Elle est fort nourissante, et peut tenir lieu de tout autre aliment. Les Baschkirs s'en trouvent très bien, elle les rend bienportans et gais; elle leur donne de l'embonpoint, et de bonnes couleurs.* From the Tar-

tars it has been borrowed by the Russians who use it medicinally. It is made with fermented mares-milk, according to the following recipe communicated by Dr Grieve in the Edin. Phil. Trans. * as he obtained it from a Russian nobleman, who went into that part of Tartary where it is made, for the sake of using it medicinally. Koumifs. Vol. i. p. 181.

"Take of fresh mare's milk, of one day, any quantity; add to it a sixth part of water, and pour the mixture into a wooden vessel; use then, as a ferment, an eighth part of the sourest cow's milk that can be got; but at any future preparation, a small portion of old koumifs will better answer the purpose of souring; cover the vessel with a thick cloth, and set it in a place of moderate warmth; leave it at rest 24 hours, at the end of which time the milk will have become sour, and a thick substance will be gathered on the top; then with a stick made at the lower end in the manner of a churn-staff, beat it till the thick substance above mentioned be blended intimately with the subjacent fluid. In this situation, leave it again at rest for 24 hours more; after which pour it into a higher and narrower vessel, resembling a churn, where the agitation must be repeated as before, till the liquor appear to be perfectly homogeneous; and in this state it is called *koumifs*, of which the taste ought to be a pleasant mixture of sweet and sour. Agitation must be employed every time before it be used."—To this detail of the process the nobleman subjoined, that in order to obtain milk in sufficient quantity, the Tartars have a custom of separating the foal from the mare during the day, and allowing it to suck during the night: and when the milk is to be taken from the mare, which is generally about five times a-day, they always produce the foal, on the supposition that she yields her milk more copiously when it is present.

To the above method of making koumifs, our author has added some particulars taken from other communications with which he was favoured by Tartars themselves. According to the account of a Tartar who lived to the south-east of Orenbourg, the proportion of milk and souring ought to be the same as above; only, to prevent changing the vessel, the milk may be put at once into a pretty high and narrow vessel; and in order to accelerate the fermentation, some warm milk may be added to it, and, if necessary, more souring.—From a Tartar whom the Doctor met with at the fair of Macarieff upon the Volga, and from whom he purchased one of the leathern bags (A) which are used by the Kalmucks for the preparation and carriage of their koumifs, he learned that the process may be much shortened by heating the milk before the souring be added to it, and as soon as the parts begin to separate, and a thick substance to rise to the top, by agitating it every hour or oftener. In this way he made some in the Doctor's presence in the space of 12 hours. Our author learned also, that it was common among some Tar-

(A) This bag was made of a horse's hide undressed, and by having been smoked had acquired a great degree of hardness. Its shape was conical, but was at the same time somewhat triangular, from being composed of three different pieces, set in a circular base of the same hide. The futures, which were made with tendons, were secured by a covering on the outside, with a doubling of the same skin, very closely secured. It had a dirty appearance, and a very disagreeable smell. On being asked the reason of this, he said, "The remains of the old koumifs were left, in order to supply a ferment to the new milk."

Koumif. Tartars to prepare it in one day during summer, and that with only two or three agitations; but that in winter, when, from a deficiency of mares milk, they are obliged to add a great proportion of that of cows, more agitation and more time are necessary. And though it is commonly used within a few days after the preparation, yet when well secured in close vessels, and kept in a cold place, that it may be preserved for three months, or even more, without any injury to its qualities. He was told farther, that the acid fermentation might be produced by four milk as above, by a four paste of rye-flour, by the rennet of a lamb's stomach, or, what is more common, by a portion of old koumifs; and that in some places they saved much time, by adding the new milk to a quantity of that already fermented; on being mixed with which, it very soon undergoes the vinous change.

It was according to the process first mentioned, however, that all the koumifs which the Doctor employed in medicine was prepared.—It has been found serviceable in hectic and in nervous complaints; and our author relates some very striking cases which the use of it had completely cured. All those who drank it, our author informs us, agreed in saying, that during its use, they had little appetite for food; that they drank it in very large quantities, not only without disgust, but with pleasure; that it rendered their veins turgid, without producing languor; that, on the contrary, they soon acquired from it an uncommon degree of sprightliness and vivacity; that even in cases of some excess it was not followed by indigestion, headache, or any of the symptoms which usually attend the abuse of other fermented liquors.

The utility, however, of this preparation as a medicine, supposing it completely ascertained, would among us, as our author observes, be greatly circumscribed by the scarcity of mares milk in this country. “Hence (says he) inquiries will naturally be made, whether other species of milk admit of a similar vinous fermentation, and what proportion of spirit they contain. As these have never been the object, however, of my attention, I will here give the substance of what I have been able to learn from others respecting that which is the most common, the milk of cows.

“Dr Pallas, in the work above quoted, says, that cows milk is also susceptible of the vinous fermentation, and that the Tartars prepare a wine from it in winter, when mares milk fails them; that the wine prepared from cows milk, they call *airen*; but that they always prefer koumifs when it can be got, as it is more agreeable, and contains a greater quantity of spirit; that koumifs on distillation yields of a weak spirit one third, but that *airen* yields only two ninth parts of its whole quantity, which spirit they call *arika*.

“This account is confirmed by Oseretzkowsky, a Russian, who accompanied Lepechin and other academicians, in their travels through Siberia and Tartary. He published lately a dissertation on the ardent spirit to be obtained from cows milk.

“From his experiments it appears, that cows milk may be fermented with, or even without, souring, provided sufficient time and agitation be employed; that no spirit could be produced from any one of its constituent parts taken separately, nor from any two of them, unless inasmuch as they were mixed with some part of

Nº 173.

the third; that the milk with all its parts in their natural proportion was the most productive of it; that the closer it was kept, or, which is the same thing, the more difficultly the fixed air is allowed to escape during the fermentation (care being taken, however, that we do not endanger the bursting of the vessel), the more spirit is obtained. He also informs us, that it had a sourer smell before than after agitation; that the quantity of spirit was increased, by allowing the fermented liquor to repose for some time before distillation; that from six pints of milk, fermented in a close vessel, and thus set to repose, he obtained three ounces of ardent spirit, of which one was consumed in burning; but that from the same quantity of the same milk fermented in an open vessel, he could scarcely obtain an ounce.”

KRAKEN, in zoology, a most amazing large sea animal, said to be seemingly of a crab-like form; the credit of whose existence rests upon the evidence produced by bishop Pontoppidan, in his Natural history of Norway.

As a full grown kraken has never been seen in all its parts and dimensions, an accurate survey of which must employ some time, and not a little motion, it is impossible to give a complete description of one. Nevertheless, we shall submit the probability of its existence on the best information our author could collect, which seems to have fixed his own belief of it; though at the same time he acknowledges the account is very defective, and supposes a farther information concerning the creature may be reserved for posterity.

Our fishermen, says the author, unanimously and invariably affirm, that when they are several miles from the land, particularly in the hot summer days, and by their distance, and the bearings of some points of land, expect from eighty to a hundred fathoms depth, and do not find but from twenty to thirty; and more especially if they find a more than usual plenty of cod and ling, they judge that the kraken is at the bottom; but if they find by their lines that the water in the same place still shallows on them, they know he is rising to the surface, and row off with the greatest expedition till they come into the usual soundings of the place; when lying on their oars, in a few minutes the monster emerges, and shows himself sufficiently, though his whole body does not appear. Its back or upper part, which seems an English mile and a half in circumference (some have affirmed more), looks at first like a number of small islands, surrounded with something that floats like sea-weeds; at last several bright points of horns appear, which grow thicker the higher they emerge, and sometimes stand up as high and large as the masts of middle-sized vessels. In a short time it slowly sinks, which is thought as dangerous as its rising; as it causes such a swell and whirlpool as draws every thing down with it, like that of Malestrom. The bishop justly regrets the omission of probably the only opportunity that ever has or may be presented, of surveying it alive, or seeing it entire when dead. This, he informs us, once did occur, on the credit of the reverend Mr Friis, minister at Nordland, and vicar of the college for promoting Christian knowledge; who informed him that in 1680, a kraken (perhaps a young and careless one, as they generally keep several leagues from land) came into the waters that run between the rocks

Kraken.

Kraken. rocks and cliffs near Alstahoug; where, in turning about, some of its long horns caught hold of some adjoining trees, which it might easily have torn up, but that it was also entangled in some clefts of the rocks, whence it could not extricate itself, but putrefied on the spot. Our author has heard of no person destroyed by this monster, but relates a report of the danger of two fishermen who came upon a part of the water full of the creature's thick slimy excrements (which he voids for some months, as he feeds for some other); they immediately strove to row off, but were not quick enough in turning to save the boat from one of the kraken's horns, which so crushed the head of it that it was with difficulty they saved their lives on the wreck, though the weather was perfectly calm; the monster never appearing at other times. His excrement is said to be attractive of other fish on which he feeds; which expedient was probably necessary, on account of his slow unwieldy motion to his subsistence; as this slow motion again may be necessary to the security of ships of the greatest force and burden, which must be overwhelmed on encountering such an immense animal, if his velocity was equal to his weight; the Norwegians supposing, that if his arms, on which he moves, and with which he takes his food, were to lay hold of the largest man of war, they would pull it down to the bottom.

In confirmation of the reality of this animal, our learned author cites Debes's description of Faroe, for the existence of certain islands which suddenly appear and as suddenly vanish. Many seafaring people, he adds, give accounts of such, particularly in the north sea; which their superstition has either attributed to the delusion of the devil, or considered as inhabited by evil spirits. But our honest historian, who is not for wronging the devil himself, supposes such mistaken islands to be nothing but the kraken, called by some the *foe trollden*, or *sea mischief*; in which opinion he was greatly confirmed by the following quotation of Dr Hierne, a learned Swede, from baron Grippenhielm; and which is certainly a very remarkable passage, viz. "Among the rocks about Stockholm, there is sometimes seen a tract of land, which at other times disappears, and is seen again in another place. Buræus has placed it as an island in his map. The peasants, who call it *gummars ore*, say, that it is not always seen, and that it lies out in the open sea, but I could never find it. One Sunday, when I was out amongst the rocks sounding the coast, it happened, that in one place I saw something like three points of land in the sea, which surprised me a little, and I thought I had inadvertently passed them over before. Upon this I called to a peasant, to enquire for *gummars ore*; but when he came, we could see nothing of it: upon which the peasant said all was well, and that this prognosticated a storm or a great quantity of fish." To which our author subjoins, "who cannot discover that this *gummars ore*, with its points and prognostications of fish, was the kraken, mistaken by Buræus for an island, who may keep himself about that spot where he rises?" He takes the kraken, doubtless, from his numerous *tentaculi*, which serve him as feet, to be of the polype kind; and the contemplation of its enormous bulk led him to adapt a passage from Ecclesiasticus, xliii. 31, 32. to it. Whether by it may be intended the dragon that is in the sea, mentioned Isaiah xxvii. 1. we refer

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to the conjecture of the reader. After paying but a just respect to the moral character, the reverend function, and diligent investigations of our author, we must admit the possibility of its existence, as it implies no contradiction; though it seems to encounter a general prepossession of the whale's being the largest animal on or in our globe; and the eradication of any long prepossession is attended with something irksome to us. But were we to suppose a salmon or a sturgeon the largest fish any number of persons had seen or heard of, and the whale had discovered himself as seldom, and but in part, as the kraken, it is easy to conceive that the existence of the whale had been as indigestible to such persons then as that of the kraken may be to others now. Some may incline to think such an extensive monster would encroach on the symmetry of nature, and be over proportionate to the size of the globe itself; as a little retrospection will inform us, that the breadth of what is seen of him, supposing him nearly round, must be full 2600 feet (if more oval, or crab-like, full 2000), and his thickness, which may rather be called *altitude*, at least three hundred; our author declaring he has chosen the least circumference mentioned of this animal for the greater certainty. These immense dimensions, nevertheless, we apprehend will not argue conclusively against the existence of the animal, though considerably against a numerous increase or propagation of it. In fact, the great scarcity of the kraken, his confinement to the north sea, and perhaps to equal latitudes in the south; the small number propagated by the whale, who is viviparous; and by the largest land animals, of whom the elephant is said to go near two years with young; all induce us to conclude from analogy, that this creature is not numerous; which coincides with a passage in a manuscript ascribed to Svere king of Norway, as it is cited by Ol. Wormius, in his Museum, p. 280, in Latin, which we shall exactly translate. "There remains one kind, which they call *basguse*, whose magnitude is unknown, as it is seldom seen. Those who affirm they have seen its body, declare, it is more like an island than a beast, and that its carcase was never found; whence some imagine there are but two of the kind in nature." Whether the vanishing island Lemair, of which Captain Rodney went in search, was a kraken, we submit to the fancy of our readers. In fine, if the existence of the creature is admitted, it will seem a fair inference, that he is the scarcest as well as largest in our world; and that if there are larger in the universe, they probably inhabit some sphere or planet more extended than our own. Such we have no pretence to limit; and that fiction can devise a much greater than this is evident, from the cock of Mahomet, and the whale in the Bava Bathra of the Talmud, which were intended to be credited; and to either of which our kraken is a very shrimp in dimensions.

KRANTZIUS (Albertus), a native of Hamburgh, and a famous historian, who travelled over several parts of Europe, and was made rector of the university of Rostoch in 1482. He went from thence to Hamburgh in 1508, where he was elected dean of the chapter in the cathedral. He did many good services to that church and city; and was so famed for his abilities and prudence, that John king of Denmark and Frederic duke of Holstein did not scruple to make him

3 Q

umpire

Kraken,
Krantzius.

Kraut
||
Kuster.

umpire in a dispute they had with the Ditmars. He wrote several good historical works; the most considerable of which is an Ecclesiastical History of Saxony, intitled *Metropolis*, in folio; the best edition is that of Francfort. He died in 1517.

KRAUT, or CROUT. See CROUT.

KUBESHA. See LESGUIS.

KUHNIUS (Joachim), a learned German critic, was born at Gripwalde in Pomerania, in 1647. He was in 1669 made principal of the college at Oettingen in Suabia: in 1676, he was elected Greek professor in the principal college at Strasburg; and after acquitting himself with honour for ten years in this capacity, was made Greek and Hebrew professor in the same university. His uncommon skill in the Greek language drew a great number of scholars about him from very distant places; and he published some classic authors with very learned notes both explanatory and critical. He died in 1697.

KUNCKEL (John), a celebrated Saxon chemist, born in the duchy of Sleswick, in 1630. He became chemist to the elector of Saxony, the elector of Brandenburg, and Charles II. king of Sweden, who gave him the title of *counsellor in metals*, and letters of nobility, with the surname of *Louwensteing*. He employed 50 years in chemistry; in which, by the help of the furnace of a glass-house which he had under his care, he made several excellent discoveries, particularly of the phosphorus of urine. He died in Sweden in 1702; and left several works, some in German, and others in Latin: among which, that intitled *Observationes Chemicæ*, and the "Art of making Glass," printed at Paris in 1752, are the most esteemed.

KURIL or KURILSKI ISLES, extending from N. Lat. 51. to 45. which probably once lengthened the peninsula of Kamtchatka before they were convulsed from it, are a series of islands running south from the low promontory Lopatka, between which and Shoomska the most northerly is only the distance of one league. On the lofty Paramoufer, the second in the chain, is a high-peaked mountain probably volcanic; and on the fourth, called *Araumakutan*, is another volcano. On Urufs there is another; on Storgu there are two; and on Kunatir, or Kaunachir, there is one. These three make part of the group which pass under the name of the land of *Jesso*. Japan abounds with volcanoes; so that there is a series of spiracles from Kamtchatka to Japan, the last great link of this extensive chain.—The Russians soon annexed these islands to their conquests. The sea abounded with otters, and the land with bears and foxes; and some of the isles sheltered the fable: temptations sufficient for the Russians to invade these islands; but the rage after the furs of the sea otters has been so great, that they are become extremely scarce both here and in Kamtchatka.

KUSTER (Ludolf), a very learned writer in the 18th century, was born at Blomberg in Westphalia. When very young, he was upon the recommendation of baron Spanheim appointed tutor to the two sons

of the count de Schwerin, prime minister of the king of Prussia, who, upon our author's quitting that station, procured him a pension of 400 livres. He was promised a professorship in the university of Joachim; and till this should be vacant, being then but 25, he resolved to travel. He read lectures at Utrecht; went to England; and from thence to France, where he collated Suidas with three MSS. in the king's library, which furnished him with a great many fragments that had never been published. He was honoured with the degree of doctor by the university of Cambridge, which made him several advantageous offers to continue there: but he was called to Berlin, where he was installed in the professorship promised him. Afterward he went to Antwerp; and being brought over to the Catholic religion, he abjured that of the Protestants. The king of France rewarded him with a pension, and ordered him to be admitted supernumerary associate of the academy of inscriptions. But he did not enjoy this new settlement long; for he died in 1716, aged 46. He was a great master of the Latin tongue, and wrote well in it; but his chief excellence was his skill in the Greek language, to which he almost entirely devoted himself. He wrote many works; the principal of which are, 1. *Historia critica Homeri*. 2. *Jamblicus de vita Pythagoræ*. 3. An excellent edition of Suidas, in Greek and Latin, three volumes, folio. 4. An edition of Aristophanes, in Greek and Latin, folio. 5. A new Greek edition of the New Testament, with Dr Mills's Variations, in folio.

KYPHONISM, KYPHONISMUS, or *Cyphonismus*, an ancient punishment which was frequently undergone by the martyrs in the primitive times; wherein the body of the person to suffer was anointed with honey, and so exposed to the sun, that the flies and wasps might be tempted to torment him. This was performed in three manners: sometimes they only tied the patient to a stake; sometimes they hoisted him up into the air, and suspended him in a basket; and sometimes they stretched him out on the ground with his hands tied behind him. The word is originally Greek, and comes from *κυρῶν*, which signifies either the *stake* to which the patient was tied, the *collar* fitted to his neck, or an *instrument* wherewith they tormented him: the scholiast on Aristophanes says, it was a wooden lock or cage; and that it was called so from *κύνειν*, "to crook or bend," because it kept the tortured in a crooked, bowing posture; others take the *κυρῶν* for a log of wood laid over the criminal's head, to prevent his standing upright: Hesychius describes the *κυρῶν* as a piece of wood whereon criminals were stretched and tormented. In effect, it is probable the word might signify all these several things. It was a generic name, whereof these were the species.

Suidas gives us the fragment of an old law, which punished those who treated the laws with contempt with kyphonism for the space of twenty days; after which they were to be precipitated from a rock, dressed in womens habit.

Kuster,
Kypho-
nism.

L.

L
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Labadie.

L, A semi-vowel, or liquid, making the eleventh letter of the alphabet.

It was derived from the old Hebrew Lamed, or Greek Lambda λ. It is sounded by intercepting the breath between the top of the tongue and forepart of the palate, with the mouth open; and makes a sweet sound, with something of an aspiration; and therefore the Britons and Spaniards usually doubled it, or added an *b* to it, in the beginning of words, as in *llan*, or *lhan*, "a temple," sounding nearly like *fl*, &c. In English words of one syllable it is doubled at the end, as *tell*, *bell*, *knell*, &c. but in words of more syllables than one it is single at the end, as *evil*, *general*, *constitutional*, &c. It is placed after most of the consonants in the beginning of words and syllables, as *black*, *glare*, *ad-le*, *ea-gle*, &c. but before none. Its sound is clear in *Abel*, but obscure in *able*, &c.

As a numeral letter, L denotes 50; and with a dash over it, thus, *L̄*, 5000. Used as an abbreviation, L stands for Lucius; and L. L. S. for a sesterce. See SESTERCE.

LA, the syllable by which Guido denotes the last sound of each hexachord; if it begins in C, it answers to our A; if in G, to E; and if in F, to D.

LABADIE (John), a famous French enthusiast, son of John Charles Labadie, governor of Bourges and gentleman in ordinary of the bed-chamber to the French king, was born in 1610. He entered young into the Jesuits college at Bourdeaux; which, by his own account, he afterwards quitted, but by other accounts was expelled for his peculiar notions, and for hypocrisy. He became a popular preacher; but being repeatedly detected in working upon female devotees with spiritual instructions for carnal purposes, his loss of character among the Catholics drove him among the Protestants. A reformed jesuit being thought a great acquisition, he was precipitately accepted as a pastor at Montauban, where he officiated for eight years; but, attempting the chastity of a young lady whom he could not convert to his purpose, and quarrelling with the Catholic priest about the right of interring a dead body, he was at length banished that place. The story of his affair with the lady, as related by Mr Balye, may here be given as a specimen of his ministry. Having directed this damsel to the spiritual life, which he made to consist in internal recollection and mental prayer, he gave her out a certain point of meditation; and having strongly recommended it to her to apply herself entirely for some hours to such an important object, he went up to her when he believed her to be at the height of her recollection, and put his hand into her breast. She gave him a hasty repulse, expressed a great deal of surprise at the proceeding, and was even preparing to rebuke him, when he, without being in the least disconcerted, and with a devout air, prevented her thus: "I see plainly, my child, that you are at a great distance from perfection; acknowledge your weakness with an humble spirit; ask forgiveness of God for your having given so little attention to the mysteries upon which you ought to have meditated. Had you bestowed all

necessary attention upon these things, you would not have been sensible of what was doing about your breast.

But you are so much attached to sense, so little concentrated with the Godhead, that you were not a moment in discovering that I had touched you. I wanted to try whether your fervency in prayer had raised you above the material world, and united you with the Sovereign Being, the living source of immortality and of a spiritual state; and I see, to my great grief, that you have made very small progress, and that you only creep on the ground. May this, my child, make you ashamed, and for the future move you to perform the duties of mental prayer better than you have hitherto done." The young lady, who had as much good sense as virtue, was no less provoked at these words than at the bold actions of her ghostly instructor; and could never afterwards bear the name of such an holy father. Labadie being driven out of Montauban, went to seek an asylum at Orange: but not finding himself so safe there as he imagined, he withdrew privately to Geneva, where he imposed on the people by his devout preaching and carriage; and from thence was invited to Middleburg, where his spirituality made him and his followers considered as so many saints, distinguished by the name of *Labadists*. They increased so much, that he excited the attention of the other churches, whose authority he disputed, till he was formally deposed by the synod of Dort. Instead of obeying, he procured a tumultuous support from a crowd of his devotees; and at length formed a little settlement between Utrecht and Amsterdam, where he erected a printing-press, which sent forth many of his works. Here he was betrayed by some deserters, who exposed his private life, and informed the public of his familiarities with his female disciples, under pretence of uniting them more particularly to God; and was finally obliged to retire to Altena in Holstein, where he died in 1674.

LABADISTS, a sect of religionists in the 17th century, followers of the opinions of John Labadie, of whom an account is given in the preceding article. Some of their opinions were, 1. That God could, and did deceive men. 2. That, in reading the Scriptures, greater attention should be paid to the internal inspiration of the Holy Spirit than to the words of the text. 3. That baptism ought to be deferred till mature age. 4. That the good and the wicked entered equally into the old alliance, provided they descended from Abraham; but that the new admitted only spiritual men. 5. That the observation of Sunday was a matter of indifference. 6. That Christ would come and reign 1000 years on earth. 7. That the eucharist was only a commemoration of the death of Christ; and that, though the symbols were nothing in themselves, yet that Christ was spiritually received by those who partook of them in a due manner. 8. That a contemplative life was a state of grace, and of divine union during this life, the summit of perfection, &c. 9. That the man whose heart was perfectly content and calm, half enjoys God, has familiar entertainments with him, and sees all things in him. 10. That this state was to be

Labadie,
Labadists.

Labarum come at by an entire self-abnegation, by the mortification of the senses and their objects, and by the exercise of mental prayer.

Labdanum

LABARUM, the banner or standard borne before the Roman emperors in the wars. The *labarum* consisted of a long lance, with a staff a-top; crossing it at right angles; from which hung a rich streamer, of a purple colour, adorned with precious stones. Till the time of Constantine it had an eagle painted on it; but that emperor, in lieu thereof, added a cross with a cipher expressing the name of *Jesus*.

This standard the Romans took from the Germans, Dacæ, Sarmatæ, Pannonians, &c. whom they had overcome. The name *labarum* was not known before the time of Constantine; but the standard itself, in the form we have described it, abating the symbols of Christianity, was used by all the preceding emperors. Some derive the word from *labor*, as if this finished their labours; some from *εὐλαβεία*, "reverence, piety;" others from *λαμβάνειν*, "to take;" and others from *λαφυρὰ*, "spoils."

LABAT (John Baptist), a celebrated traveller, of the order of St Dominic, was born at Paris, taught philosophy at Nancy, and in 1693 went to America in quality of a missionary. At his return to France in 1705, he was sent to the chapter of his order at Bologna to give an account of his mission, and staid several years in Italy. He died at Paris in 1738. His principal works are, 1. *A new voyage to the American islands*, 6 vols 12mo. 2. *Travels in Spain and Italy*, 8 vols 12mo. 3. *A new account of the western parts of Africa*, 5 vols 12mo.: Father Labat was not in Africa, and therefore was not a witness of what he relates in that work. He also published the *Chevalier des Marchais's voyage to Guinea*, in 4 vols 12mo.; and *An historical account of the western parts of Æthiopia*, translated from the Italian of Father Cavazzi, 5 vols 12mo.

LABBE (Philip), born at Bourges in France, in 1607; professed philosophy, divinity, and the languages, with great applause; and died in 1667, aged 70. He was a laborious writer, and a good critic; and wrote, 1. *Nova Bibliotheca MS. librorum*, in two volumes folio. 2. *De Byzantina historia Scriptoribus*. 3. *Galenii vita*. 4. *Bibliotheca bibliothecarum*. 5. *Concordantia chronologica*, &c. He began the last edition of "The councils," and died while the 9th volume was printing; they were finished in 17 volumes by father Cossart.

LABDANUM, or **LADANUM**, in the materia medica, a resinous juice, which exsudes from a tree of the cistus kind. It is said to have been formerly collected from the beards of goats who browsed the leaves of the cistus: at present, a kind of rake, with several straps or thongs of skins fixed to it, is drawn lightly over the shrub, so as to take up the unctuous juice, which is afterwards scraped off with knives. It is rarely met with pure, even in the places which produce it; the dust, blown upon the plant by the wind, mingling with the tenaceous juice: the inhabitants are also said to mix with it a certain black sand. In the shops two sorts are met with. The best (which is very rare) is in dark-coloured almost black masses, of the consistence of a soft plaster, which grows still softer upon being handled; of a very agreeable smell, and

of a light pungent bitterish taste. The other sort is harder, not so dark coloured, in long rolls coiled up: this is of a much weaker smell than the first, and has a large admixture of a fine sand, which in the *labdanum*, examined by the French academy, made up three-fourths of the mass.

In medicine it is used externally, to attenuate and discuss tumors; internally, it is more rarely used, but is greatly extolled by some against catarrhs and in dysenteries. Rectified spirit of wine almost entirely dissolves pure *labdanum*, leaving only a small portion of gummy matter which has no taste or smell: and hence this resin may be thus excellently purified for internal purposes. It is an useful ingredient in the stomachic plaster, which is now indeed styled the *emplastrum ladani*.

LABEL, a long, thin, brass rule, with a small sight at one end, and a centre-hole at the other; commonly used with a tangent-line on the edge of a circumferentor, to take altitudes, &c.

LABEL, in law, is a narrow slip of paper, or parchment, affixed to a deed or writing, in order to hold the appending seal.—Any paper annexed by way of addition or explication, to any will or testament, is also called a label or codicil.

LABEL, in heraldry, a fillet usually placed in the middle along the chief of the coat, without touching its extremities. Its breadth ought to be a ninth part of the chief. It is adorned with pendants; and when there are above three of these, the number must be specified in blazoning.

It is used on the arms of eldest sons while the father is alive, to distinguish them from the younger; and is esteemed the most honourable of all differences. See **HERALDRY**, p. 445. col. 1.

LABIAL LETTERS, those pronounced chiefly by means of the lips.

LABIATED FLOWERS, monopetalous flowers, consisting of a narrow tube with a wide mouth, divided into two or more segments.

LABIAU, a small town of Ducal Prussia, in a circle of the same name, seated at the mouth of the river Deime, with a strong castle, two sides of which are surrounded with water, and the other defended by a wall and ditch. E. Long. 19. 56. N. Lat. 55. 17.

LABORATORY, or **ELABORATORY**, the chemists work-house, or the place where they perform their operations, where the furnaces are built, their vessels kept, &c. and in general the term *laboratory* is applied to any place where physical experiments in pharmacy, chemistry, pyrotechny, &c. are performed.

As laboratories must be of very different kinds, according to the nature of the operations to be performed in them, it is impossible that any directions can be given which will answer for every one. Where the purposes are merely experimental, a single furnace or two of the portable kind will be sufficient. It is scarce needful to add, that shelves are necessary for holding vessels with the products of the different operations; and that it is absolutely necessary to avoid confusion and disorder, as by these means the products of the operations might be lost or mistaken for one another. Mortars, filters, levigating stones, &c. must also be procured: but from a knowledge of the methods of performing the different chemical operations will easily be derived the knowledge of a proper place to perform them.

Labdanum
Laboratory

Jynx or Wry neck.



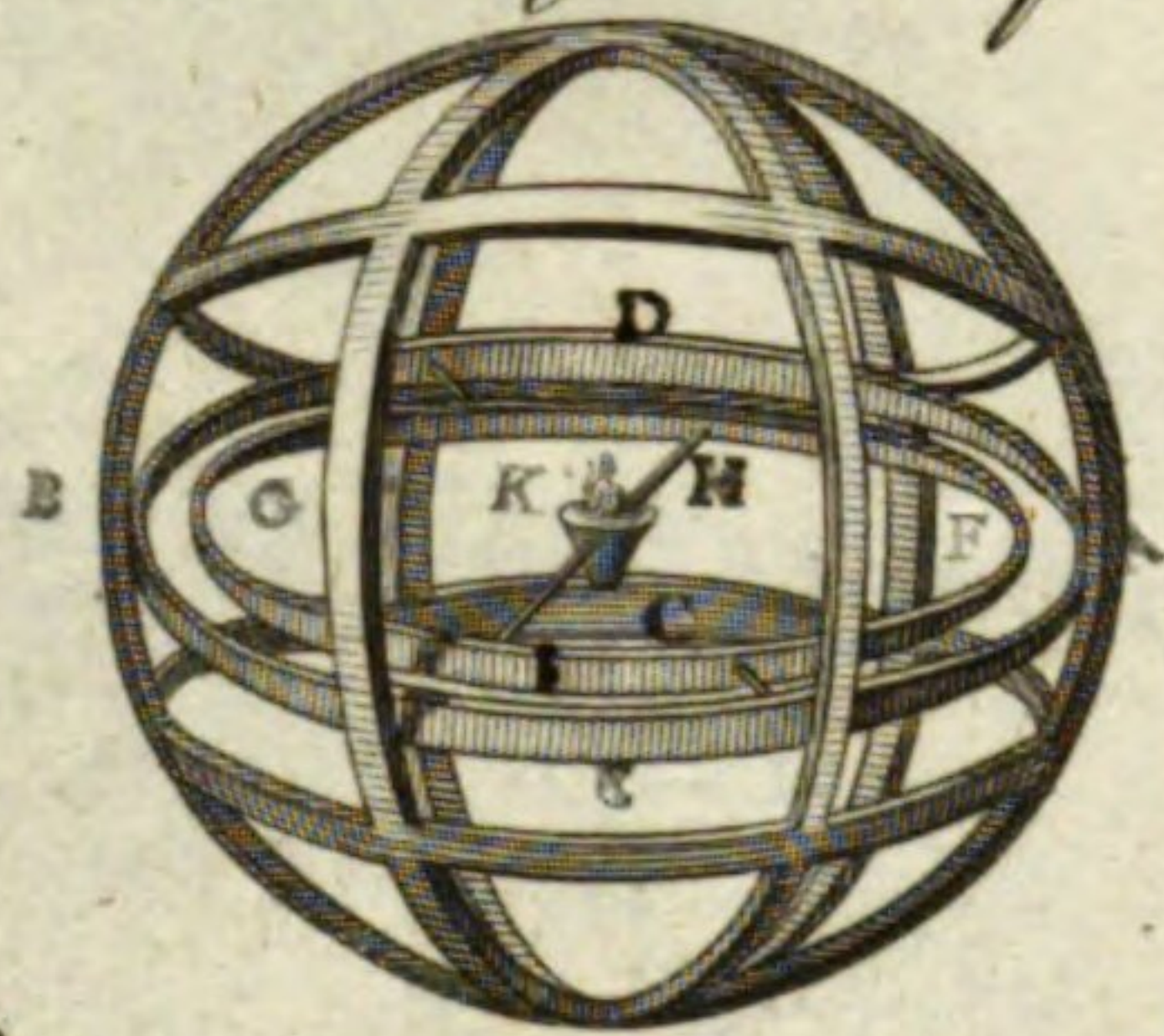
Ceythian Lamb.



Lampyrus.



Rolling Lamp.



Labyrinth.



LABORATORY, in military affairs, signifies that place where all sorts of fire-works are prepared, both for actual service and for pleasure, viz. quick-matches, fuzes, port-fires, grape-shot, case-shot, carcasses, hand-grenades, cartridges, shells filled, and fuzes fixed, wads, &c. &c.

LABOUR, in general, denotes a close application to work or business.—Among seamen a ship is said to be in labour when she rolls and tumbles very much, either a hull, under sail, or at anchor.—It is also spoken of a woman in travail or child birth; see **MIDWIFERY**.

LABOUREUR, generally signifies one that does the most slavish and less artful part of a laborious work, as that of husbandry, masonry, &c.

LABOUREUR (John le), almoner to the king of France, and prior of Juvigne, was born at Montmorency near Paris in 1623. At the age of 18, he distinguished himself by publishing "A collection of the monuments of illustrious persons buried in the church of the Celestines at Paris, with their elogies, genealogies, arms, and mottoes," 4to. He afterwards published an excellent edition of The Memoirs of Michael de Castelnau, with several other genealogical histories; and died in 1675.—He had a brother, *Louis le Laboureur*, bailiff of Montmorency, author of several pieces of poetry; and an uncle, *Dom. Claude le Laboureur*, provost of the abbey of L'isle Barbe, of which abbey he wrote a history, and published notes and corrections upon the breviary of Lyons, with some other things.

LABRADOR, the same with *New-Britain*, or the country round *Hudson's Bay*. See these articles.

LABRADORE STONE, a curious species of felspar, which exhibits all the colours of a peacock's tail. See the article *FELT-Spar*.

LABRUM, in antiquity, a great tub which stood at the entrance of the temples, containing water for the priests to wash themselves in previous to their sacrifices. It was also the name of a bathing tub used in the baths of the ancients.

LABRUS, in ichthyology, a genus of fishes belonging to the order of thoracici. The characters are as follow: The covers of the gills scaly; the branchiostegous rays unequal in number; teeth conic, long, and blunt at their ends; one tuberculated bone in the bottom of the throat; two above, opposite to the other; one dorsal fin reaching the whole length of the back; a slender skin extending beyond each ray, with a rounded tail. There are 41 species of this genus, which vary from each other, even those of the same species, almost infinitely in colour; some of them being of a dirty red mixed with a certain duskiness; others most beautifully striped, especially about the head, with the richest colours, such as blue, red, and yellow. Care must therefore be taken not to multiply the species from these accidental tints, but to attend to the form, which never varies. Mr Pennant mentions his having seen a species of labrus taken about the Giant's Causeway in Ireland, of a most beautiful vivid green, spotted with scarlet; and others at Bandooran in the county of Sligo of a pale green. To this genus belongs the fish called by the English the *old-wife*.

LABURNUM, in botany. See **CYTISUS**.

LABYRINTH, among the ancients, was a large intricate edifice cut out into various aisles and meanders running into each other, so as to render it difficult to get out of it.

There is mention made of several of those edifices among the ancients; but the most celebrated are the Egyptian and the Cretan labyrinths.

That of Egypt, according to Pliny, was the oldest of all the known labyrinths, and was subsisting in his time after having stood 3600 years. He says it was built by king Petefucus, or Tithoes; but Herodotus makes it the work of several kings: it stood on the banks of the lake Moeris, and consisted of 12 large contiguous palaces, containing 3000 chambers, 1500 of which were under ground.—Strabo, Diodorus Siculus, Pliny, and Mela, speak of this monument with the same admiration as Herodotus: but not one of them tells us that it was constructed to bewilder those who attempted to go over it; though it is manifest that, without a guide, they would be in danger of losing their way.

It was this danger, no doubt, which introduced a new term into the Greek language. The word *labyrinth*, taken in the literal sense, signifies a circumscribed space, intersected by a number of passages, some of which cross each other in every direction like those in quarries and mines, and others make larger or smaller circuits round the place from which they depart like the spiral lines we see on certain shells. In the figurative sense, it was applied to obscure and captious questions, to indirect and ambiguous answers, and to those discussions which, after long digressions, bring us back to the point from which we set out.

The Cretan labyrinth is the most famed in history or fable; having been rendered particularly remarkable by the story of the Minotaur, and of Theseus who found his way through all its windings by means of Ariadne's clue. On Plate CCLIX. is exhibited a supposed plan of it, copied after a draught given by Meursius*, taken from an ancient stone.—But what was the real nature of this labyrinth, merits a more particular inquiry. In Creta. lib. 1. cap. 2.

Diodorus Siculus relates as a conjecture, and Pliny as a certain fact, that Dædalus constructed this labyrinth on the model of that of Egypt, though on a less scale. They add, that it was formed by the command of Minos, who kept the Minotaur shut up in it; and that in their time it no longer existed, having been either destroyed by time, or purposely demolished. Diodorus Siculus and Pliny, therefore, considered this labyrinth as a large edifice; while other writers represent it simply as a cavern hollowed in the rock, and full of winding passages. The two former authors, and the writers last mentioned, have transmitted to us two different traditions; it remains for us to choose that which is most probable.

If the labyrinth of Crete had been constructed by Dædalus under Minos, whence is it that we find no mention of it, neither in Homer, who more than once speaks of that prince and of Crete; nor in Herodotus, who describes that of Egypt, after having said that the monuments of the Egyptians are much superior to those of the Greeks; nor in the more ancient geographers; nor in any of the writers of the ages when Greece flourished?

This

Labyrinth. This work was attributed to Dædalus, whose name is alone sufficient to discredit a tradition. In fact, his name, like that of Hercules, had become the resource of ignorance, whenever it turned its eyes on the early ages. All great labours, all works which required more strength than ingenuity, were attributed to Hercules; and all those which had a relation to the arts, and required a certain degree of intelligence in the execution, were ascribed to Dædalus.

The opinion of Diodorus and Pliny supposes, that in their time no traces of the labyrinth existed in Crete, and that even the date of its destruction had been forgotten. Yet it is said to have been visited by the disciples of Apollonius of Tyana, who was cotemporary with those two authors. The Cretans, therefore, then believed that they possessed the labyrinth.

Travels of Anacharsis, vi. 441. "I would request the reader (continues the Abbe Barthelemi †, from whom these observations are extracted) to attend to the following passage in Strabo. At Napulia, near the ancient Argos, (says that judicious writer), are still to be seen vast caverns, in which are constructed labyrinths that are believed to be the work of the Cyclops: the meaning of which is, that the labours of men had opened in the rock passages which crossed and returned upon themselves, as is done in quarries. Such, if I am not mistaken, is the idea we ought to form of the labyrinth of Crete.

"Were there several labyrinths in that island? Ancient authors speak only of one, which the greater part place at Cnossus; and some, though the number is but small, at Gortyna.

"Belon and Tournefort have given us the description of a cavern situated at the foot of mount Ida, on the south side of the mountain, at a small distance from Gortyna. This was only a quarry according to the former, and the ancient labyrinth according to the latter; whose opinion I have followed, and abridged his account. Those who have added critical notes to his work, besides this labyrinth, admit a second at Cnossus, and adduce as the principal support of this opinion the coins of that city, which represent the plan of it, according as the artists conceived it. For on some of these it appears of a square form, on others round: on some it is only sketched out; on others it has, in the middle of it, the head of the Minotaur. In the Memoirs of the Academy of Belles Lettres, I have given an engraving of one which appears to me to be of about the 5th century before Christ; and on which we see on one side the figure of the Minotaur, and on the other a rude plan of the labyrinth. It is therefore certain, that at that time the Cnossians believed they were in possession of that celebrated cavern; and it also appears that the Gortynians did not pretend to contest their claim, since they have never given the figure of it on their money.

"The place where I suppose the labyrinth of Crete to have been situated, according to Tournefort, is but one league distant from Gortyna; and, according to Strabo, it was distant from Cnossus six or seven leagues. All we can conclude from this is, that the territory of the latter city extended to very near the former.

"What was the use of the caverns to which the name of labyrinth was given? I imagine that they were first excavated in part by nature; that in some places stones were extracted from them for building

cities; and that, in more ancient times, they served for a habitation or asylum to the inhabitants of a district exposed to frequent incursions. In the journey of Anacharsis through Phocis, I have spoken of two great caverns of Parnassus, in which the neighbouring people took refuge; in the one at the time of the deluge of Deucalion, and in the other at the invasion of Xerxes. I here add, that, according to Diodorus Siculus, the most ancient Cretans dwelt in the caves of Mount Ida. The people, when inquiries were made on the spot, said that their labyrinth was originally only a prison. It may have been put to this use; but it is difficult to believe that, to prevent the escape of a few unhappy wretches, such immense labours would have been undertaken."

Labyrinth of the Ear. See ANATOMY, p. 764.

LAC, MILK, among physicians. See MILK.

LAC, Gum. See LACCA.

LACARRY (Giles), a learned Jesuit of the 17th century, was born in the diocese of Castres, in Languedoc, in 1605. He taught philosophy, theology, and the holy Scriptures in his society; was rector of the college of Cahors; and became well skilled in history. He wrote many works; the principal of which are, 1. *Hist. Galliarum sub Præfatis Prætorii Galliarum*, 4to. a work which is much esteemed, and extends from the reign of Constantine to that of Justinian. 2. *Historia Romana a Julio Cæsare ad Constantinum Magnum, per numismata & marmora antiqua*, an excellent work. 3. *Epitome historie Reg. Franciæ, ex Dionysio Petavio excerpta*, also much esteemed. 4. An edition of Velleius Paterculus, with learned notes.

LACCA, Lac, or Gum-Lac is a kind of wax, of which a species of insects form cells upon trees, like honeycombs. See the article Coccus, spec. 5. In these cells remain some of the dead insects, which give a red colour to the whole substance of the lac. That called *stick-lac* is the wax adhering to some of the small branches of the tree, and which is unprepared. This lac, when separated from the adhering sticks, and grossly powdered, and deprived of its colour by digestion with menstrua, for the sake of the dyes and other purposes, is called *seed-lac*; when the stick-lac is freed from impurities by melting it over a gentle fire, and formed into cakes, it is called *lump-lac*; and lastly, that called *shell-lac* is the cells liquified, strained, and formed into thin transparent laminæ in the following manner. Separate the cells from the branches, break them into small pieces, throw them into a tub of water for one day, wash off the red water and dry the cells, and with them fill a cylindrical tube of cotton cloth two feet long, and one or two inches in diameter; tie both ends, turn the bag above a charcoal fire; as the lac liquifies twist the bag, and when a sufficient quantity has transuded the pores of the cloth, lay it upon a smooth junk of the plantain-tree (*Musa Paradisiaca, Linnei*), and with a strip of the plantain leaf draw it into a thin lamella; take it off while flexible, for in a minute it will be hard and brittle. The value of shell-lac is according to its transparency.

The lac insect is one of the most useful of that tribe yet discovered, particularly to the natives of the countries where it is found. They consume a great quantity of shell-lac in making ornamental rings, painted and gilded in various tastes, to decorate the arms of the

Labyrinth
||
Lacca.

Kerr's Account of the Gum Lacca, in Phil. Transf. vol. 71. p. 378, &c.

Lacca. the ladies; and it is formed into beads, spiral and linked chains for necklaces, and other female ornaments.—The following are recipes for various purposes to which this substance is applied by them.

1. For sealing wax. Take a stick, and heat one end of it upon a charcoal fire; put upon it a few leaves of the shell-lac softened above the fire; keep alternately heating and adding more shell-lac until you have got a mass of three or four pounds of liquified shell-lac upon the end of your stick (in which manner lump lac is formed from seed-lac). Knead this upon a wetted board with three ounces of levigated cinnamon; form it into cylindrical pieces; and to give them a polish, rub them while hot with a cotton cloth.

2. For jappanning. Take a lump of shell-lac, prepared in the manner of sealing-wax, with whatever colour you please, fix it upon the end of a stick, heat the polished wood over a charcoal fire, and rub it over with the half-melted lac, and polish by rubbing it even with a piece of folded plantain leaf held in the hand; heating the laquer and adding more lac as occasion requires. Their figures are formed by lac, charged with various colours in the same manner.

3. For Varnish. In ornamenting their images and religious houses, &c. they make use of very thin beat lead, which they cover with various varnishes, made of lac charged with colours. The preparation of them is kept a secret. The leaf of lead is laid upon a smooth iron heated by fire below while they spread the varnish upon it.

4. For Grindstones. Take of river sand three parts, of seed-lac washed one part, mix them over the fire in a pot, and form the mass into the shape of a grindstone, having a square hole in the centre, fix it on an axis with liquified lac, heat the stone moderately, and by turning the axis it may easily be formed into an exact orbicular shape. Polishing grindstones are made only of such sand as will pass easily through fine muslin, in the proportion of two parts sand to one of lac. This sand is found at Ragimaul. It is composed of small angular crystalline particles tinged red with iron, two parts to one of black magnetic sand. The stone-cutters, instead of sand, use the powder of a very hard granite called *corune*. These grindstones cut very fast. When they want to increase their power, they throw sand upon them, or let them occasionally touch the edge of a vitrified brick. The same composition is formed upon sticks, for cutting stones, shells, &c. by the hand.

5. For Painting. Take one gallon of the red liquid from the first washing for shell-lac, strain it thro' a cloth, and let it boil for a short time, then add half an ounce of soap earth (fossil alkali); boil an hour more, and add three ounces of powdered load (bark of a tree); boil a short time, let it stand all night, and strain next day. Evaporate three quarts of milk without cream to two quarts upon a slow fire, curdle it with four milk, and let it stand for a day or two; then mix it with the red liquid above mentioned; strain them through a cloth, add to the mixture one ounce and an half of alum, and the juice of eight or ten lemons: mix the whole and throw it into a cloth-bag strainer. The blood of the insect forms a coagulum with the caseous part of the milk, and remains in the bag, while a limpid acid water drains from it. The

coagulum is dried in the shade, and is used as a red colour in painting and colouring.

6. For Dyeing. Take one gallon of the red liquid prepared as before without milk, to which add three ounces of alum. Boil three or four ounces of tamarinds in a gallon of water, and strain the liquor. Mix equal parts of the red liquid and tamarind water over a brisk fire. In this mixture dip and wring the silk alternately until it has received a proper quantity of the dye. To increase the colour, increase the proportion of the red liquid, and let the silk boil a few minutes in the mixture. To make the silk hold the colour, they boil a handful of the bark called *load* in water, strain the decoction, and add cold water to it; dip the dried silk into this liquor several times, and then dry it. Cotton cloths are dyed in this manner; but the dye is not so lasting as in silk.

The lac colour is preserved by the natives upon flakes of cotton dipped repeatedly into a strong solution of the lac insect in water, and then dried.

Among us lac is also used in various arts; being employed in the preparation of spirit-varnishes, for the making of sealing-wax, and as a colouring material for dying scarlet; see VARNISH, WAX, &c. It is insoluble in water; and difficultly soluble in spirit of wine, which for that purpose must be well dephlegmated. According to Neumann, 16 ounces of seed-lac, distilled in an open fire, yielded nine ounces and six drams of a butter or thick oil, one ounce six drams of a watery liquor neither acid nor alkaline, and a residuum weighing two ounces and a half. The colour given by lac is less beautiful, but more durable, than that given by cochineal. To render the colouring matter of the lac diffusible in water, so as to be applied to the stuffs to be dyed, Mr Hellot directs the following process: Let some powdered gum-lac be digested during two hours in a decoction of comfrey root, by which a fine crimson colour is given to the water, and the gum is rendered pale or straw-coloured. To this tincture, poured off clear, let a solution of alum be added; and when the colouring matter has subsided, let it be separated from the clear liquor and dried. It will weigh about $\frac{1}{7}$ th of the quantity of lac employed. This dried fecula is to be dissolved or diffused in warm water, and some solution of tin is to be added to it, by which it acquires a vivid scarlet colour. This liquor is to be added to a solution of tartar in boiling water; and thus the dye is prepared.

The method of obtaining the fine red lac used by painters from this substance, is by the following simple process. Boil the stick-lac in water, filtre the decoction, and evaporate the clear liquor to a dryness over a gentle fire. The occasion of this easy separation is, that the beautiful red colour here separated, adheres only slightly to the outsides of the sticks broke off the trees along with the gum-lac, and readily communicates itself to boiling water. Some of this sticking matter also adhering to the gum itself, it is proper to boil the whole together; for the gum does not at all prejudice the colour, nor dissolve in boiling water: so that after this operation the gum is as fit for making sealing-wax as before, and for all other uses which do not require its colour.

Lac is likewise employed for medicinal purposes.

The

Lacca,
Lace.

The stick-lac is the sort used. It is of great esteem in Germany, and other countries, for laxity and sponginess of the gums proceeding from cold or a scorbutic habit: for this use the lac is boiled in water, with the addition of a little alum, which promotes its solution; or a tincture is made from it with rectified spirit. This tincture is recommended also internally in the fluor albus, and in rheumatic and scorbutic disorders: it has a grateful smell, and not unpleasant, bitterish, astringent taste.

The gum-lac has been lately used as an electric, instead of glass, for electrical machines. See LACQUER, LAKE, and VARNISH.

Artificial Lacca, or *Lacque*, is also a name given to a coloured substance drawn from several flowers; as the yellow from the flower of the juniper, the red from the poppy, and the blue from the iris or violet. The tinctures of these flowers are extracted by digesting them several times in aqua-vitæ, or by boiling them over a stove fire in a lixivium of pot-ashes and alum.

An artificial lacca is also made of Brasil wood, boiled in a lixivium of the branches of the vine, adding a little cochineal, turmeric, calcined alum, and arsenic, incorporated with the bones of the cuttle-fish pulverized and made up into little cakes and dried. If it be to be very red, they add the juice of lemon to it; to make it brown, they add oil of tartar. Dove-coloured or columbine lacca is made with Brasil of Fernambuc, steeped in distilled vinegar for the space of a month, and mixed with alum incorporated in cuttle-fish bone. For other processes, see *COLOUR-Making*.

LACE, in commerce, a work composed of many threads of gold, silver, or silk, interwoven the one with the other, and worked upon a pillow with spindles according to the pattern designed. The open work is formed with pins, which are placed and displaced as the spindles are moved. The importation of gold and silver lace is prohibited.

Method of Cleaning Gold-LACE and Embroidery when tarnished.—For this purpose alkaline liquors are by no means to be used; for while they clean the gold, they corrode the silk, and change or discharge its colour. Soap also alters the shade, and even the species of certain colours. But spirit of wine may be used without any danger of its injuring either the colour or quality of the subject; and in many cases proves as effectual, for restoring the lustre of the gold, as the corrosive detergents. A rich brocade, flowered with a variety of colours, after being disagreeably tarnished, had the lustre of the gold perfectly restored by washing it with a soft brush dipt in warm spirit of wine; and some of the colours of the silk, which were likewise soiled, became at the same time remarkably bright and lively. Spirit of wine seems to be the only material adapted to this intention, and probably the boasted secret of certain artists is no other than this spirit disguised. Among liquids, Dr Lewis says, he does not know of any other that is of sufficient activity to discharge the foul matter, without being hurtful to the silk: as to powders, however fine, and however cautiously used, they scratch and wear the gold, which here is only superficial and of extreme tenuity.

But tho' spirit of wine is the most innocent material that can be employed for this purpose, it is not in all

cases proper. The golden covering may be in some parts worn off; or the base metal, with which it had been iniquitously alloyed, may be corroded by the air, so as to leave the particles of the gold disunited; while the silver underneath, tarnished to a yellow hue, may continue a tolerable colour to the whole: in which cases it is apparent, that the removal of the tarnish would be prejudicial to the colour, and make the lace or embroidery less like gold than it was before. A piece of old tarnished gold-lace, cleaned by spirit of wine, was deprived, with its tarnish, of the greatest part of its golden hue, and looked now almost like silver-lace.

Method of separating the Gold and Silver from LACE without burning it. Cut the lace in pieces, and (having separated the thread from it by which it was sewed to the garment) tie it up in a linen cloth, and boil it in soap-ley, diluted with water, till you perceive it is diminished in bulk; which will take up but a little time, unless the quantity of lace be very considerable. Then take out the cloth, and wash it several times in cold water, squeezing it pretty hard with your foot, or beating it with a mallet, to clear it of the soap-ley; then untie the cloth, and you will have the metallic part of the lace pure, and nowhere altered in colour or diminished in weight.

This method is abundantly more convenient and less troublesome than the common way of burning; and as a small quantity of the ley will be sufficient, the expence will be trifling, especially as the same ley may be used several times, if cleared of the filky calcination. It may be done in either an iron or copper vessel.

The ley may be had at the soap-boilers, or it may be made of pearl-ash and quick-lime boiled together in a sufficient quantity of water.

The reason of this sudden change in the lace will be evident to those who are acquainted with chemistry: for silk, on which all our laces are wove, is an animal substance, and all animal substances are soluble in alkalies, especially when rendered more caustic by the addition of quicklime; but the linen you tie it in, being a vegetable, will remain unaltered.

Blond-LACE, a lace made of fine linen thread or silk, much in the same manner as that of gold and silver. The pattern of the lace is fixed upon a large round pillow, and pins being stuck into the holes or openings in the patterns, the threads are interwoven by means of a number of bobbins made of bone or ivory, each of which contains a small quantity of fine thread, in such a manner as to make the lace exactly resemble the pattern. There are several towns in England, and particularly in Buckinghamshire, that carry on this manufacture; but vast quantities of the finest lace have been imported from Flanders.

LACEDÆMON (fab. hist.), a son of Jupiter and Tayget the daughter of Atlas, who married Sparta the daughter of Europa, by whom he had Amyclas and Eurydice the wife of Acrisius. He was the first who introduced the worship of the Graces in Laconia, and who first built them a temple. From Lacedæmon and his wife, the capital of Laconia was called *Lacedæmon* and *Sparta*.

LACEDÆMON, a noble city of Peloponnesus, called also *Sparta*; these names differing in this, that the latter is the proper and ancient name of the city, the former of the country, which afterwards came

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came to be applied to the city (Strabo, Stephanus.) Homer also makes this distinction; who calls the country *heli*, because encompassed with mountains. It has also been severally known by the name of *Lelegia*, from the Leleges the first inhabitants of the country, or from Lelex one of their kings; and *Oebalia*, from Oebalus the sixth king from Eurotas. It was also called *Hecatompolis*, from 100 cities which the whole province once contained. This city was the capital of Laconia, situated on the right or west side of the Eurotas: it was less in compass than, however equal, or even superior, to Athens in power. Polybius makes it 48 stadia, a circuit much inferior to that of Athens. Lelex is supposed to have been the first king of Lacedæmon. His descendants, 13 in number, reigned successively after him, till the reign of the sons of Orestes, when the Heraclidæ recovered the Peloponnesus about 80 years after the Trojan war. Procles and Eurysthene, the descendants of the Heraclidæ, usurped the crown together; and after them it was decreed that the two families should always sit on the throne together. The monarchical power was abolished, and the race of the Heraclidæ extinguished at Sparta about 219 years before Christ. Lacedæmon in its flourishing state remained without walls, the bravery of its citizens being instead of them (*Nepos*). At length in Cassander's time, or after, when the city was in the hands of tyrants, distrustful the defence by arms and bravery, a wall was built round it, at first slight, and in a tumultuary, or hasty manner; which the tyrant Nabis made very strong (Livy, Justin). Pausanias ascribes the first walls to the times of Demetrius and Pyrrhus, under Nabis. The walls of the city were pulled down 188 years before Christ by Philopœmen, who was then at the head of the Achæan league, and Laconia some time after became a Roman province when reduced by Mummius. See SPARTA. —The present city is called *Mistra*, situated in E. Long. 23. O. N. Lat. 36. 55.

LACERNA, a coarse thick garment worn by the Romans over their gowns like a cloak, to keep off the rain and cold. It was first used in the camp, but afterwards admitted into the city. The emperors wore the lacerna of a purple dye. The lacerna was at first very short, but was lengthened after it became fashionable, which was not till the civil wars and the triumvirate; before this time it was confined to the soldiers. Senators were forbidden wearing it in the city by Valentinian and Theodosius. Martial makes mention of lacernæ worth 10,000 sesterces. Some confound this garment with the penula; but it seems rather to have resembled the *chlamys* and *birrus*.

Plates
CCLX. &
CCLXI.

LACERTA, the LIZARD, in zoology, a genus of amphibious animals, belonging to the order of reptilia, the characters of which are these: The body is naked, with four feet, and a tail. There are 49 species: the most remarkable are,

1. The crocodylus, or crocodile, has a compressed jagged tail, five toes on the fore and four on the hind-feet. This is the largest animal of the lizard kind. One that was dissected at Siam, an account of which was sent to the Royal Academy at Paris, was 18 feet and a half long, of which the tail was no less than five feet and a half, and the head and neck above two and a half. He was four feet and nine inches in circumference where thickest.

The hinder legs, including the thigh and the paw,
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were two feet and two inches long; the paws, from the joint to the extremity of the longest claws, were above nine inches. They were divided into four toes; of which three were armed with large claws, the longest of which was an inch and a half, and seven lines and a half broad at the root. The fourth toe was without a nail, and of a conical figure; but was covered with a thick skin like shagreen leather. These toes were united with membranes like those of ducks, but much thicker.

The fore-legs had the same parts and conformation as the arms of a man, both within and without; but they were somewhat shorter than those behind. The hands had five fingers, the two last of which had no nails, and were of a conical figure, like the fourth toe on the hind paws. The head was long, and had a little rising at the top; but the rest was flat, and especially towards the extremity of the jaws. It was covered with a skin, which adhered firmly to the skull and to the jaws. The skull was rough and unequal in several places; and about the middle of the forehead there were two bony crests, about two inches high. They were not quite parallel, but separated from each other in proportion as they mounted upwards.

The eye was very small in proportion to the rest of the body; and was so placed within its orbit, that the outward part, when shut, was only a little above an inch in length, and run parallel to the opening of the jaws.

The nose was placed in the middle of the upper jaw, near an inch from its extremity, and was perfectly round and flat, being two inches in diameter, of a black, soft, spongy substance, not unlike the nose of a dog. The nostrils were in the form of a Greek capital Σ ; and there were two caruncles which filled and closed them very exactly, and which opened as often as he breathed through the nose. The jaws seemed to shut one within another by means of several apophyses, which proceeded from above downwards, and from below upwards, there being cavities in the opposite jaw to receive them. They had 27 dog-teeth in the upper jaw and 15 in the lower, with several void spaces between them. They were thick at the bottom, and sharp at the point; being all of different sizes, except ten large hooked ones, six of which were in the lower jaw, and four in the upper. The mouth was 15 inches in length, and eight and a half in breadth where broadest; and the distance of the two jaws, when opened as wide as they could be, was 15 inches and a half. The skull, between the two crests, was proof against a musket-ball, for it only rendered the part a little white that it struck against.

The colour of the body was of a dark brown on the upper part, and of a whitish citron below, with large spots of both colours on the sides. From the shoulders to the extremity of the tail he was covered with large scales of a square form, disposed like parallel girdles, and were 52 in number; but those near the tail were not so thick as the rest. In the middle of each girdle there were four protuberances, which became higher as they approached the end of the tail, and composed four rows; of which the two in the middle were lower than the remaining two, forming three channels, which grew deeper the nearer they came to the tail, and were confounded with each other about two feet from its extremity.

The skin was defended with a sort of armour
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Lacerta.

Lacerta.

which, however, was not proof against a musket-ball, contrary to what has been commonly said. However, it must be acknowledged, that the attitude in which it was placed might contribute not a little thereto; for probably, if the ball had struck obliquely against the shell, it would have flown off. Those parts of the girdles underneath the belly were of a whitish colour, and were made up of scales of divers shapes. They were about one sixth of an inch in thickness, and were not so hard as those on the back.

This creature is, however, said to grow to a still larger size than that above mentioned, some having been known to measure 25 feet in length.—They have no tongue; but in place of that organ there is a sort of membrane attached by its edges to the two sides of the under jaw.

The crocodile lays eggs, which she covers over with sand, and leaves to be hatched by the heat of the sun. They are to be met with in the rivers Nile, Niger, and Ganges, besides most other large rivers in the southern parts of Asia, Africa, and America.

Mr Hasselquist informs us, that the crocodile swallows stones to assist digestion, after the manner of seed-eating birds, which commit to the stomach the work of mastication as well as concoction, being destitute of the instruments adapted to that purpose. The Egyptians say, that his excrements do not pass by the anus: this seems to be confirmed by the structure of the gut, which is near the pylorus; for it cannot easily be conceived that excrements should pass through such a narrow passage, seemingly destined for the conveyance of the chyle only; but the structure of the parts, and the gut being so near the pylorus, seem to indicate that the excrements pass through it into the ventricle, and are vomited up. The inhabitants above Cairo say they see this daily; and observe, that the crocodile is obliged to come on shore as often as he has occasion to ease himself. There is a folliculus, of the bigness of a hazel-nut, under the shoulders of the old crocodiles, which contains a thick matter smelling like musk. The Egyptians are very anxious to get this when they kill a crocodile, it being a perfume much esteemed by the grandees. When the male copulates with the female, he turns her with his snout on her back. The Egyptians use the fat against the rheumatism and stiffness of the tendons, esteeming it a powerful remedy outwardly applied. They say the gall is good for the eyes; they make use of it as a certain remedy for barrenness in women, taking about six grains internally, and outwardly they apply a pessus made of cotton and the gall of a crocodile. The eyes of the crocodile are the best aphrodisiacs of any known by the Arabs; who prefer them to all confections, dea-satyrii, hyacinthi, &c. and even to ambergris.

The crocodile is a very dangerous and terrible animal in some countries. It does a great deal of mischief among the common people of Upper Egypt, often killing and devouring women who come to the river to fetch water, and children playing on the shore or swimming in the river. In the stomach of one dissected before Mr Barton the English consul, they found the bones of the legs and arms of a woman, with the rings which they wear in Egypt as ornaments. These animals are seen in some places lying for whole hours, and even days, stretched in the sun and motionless; so that one not used to them might mistake

them for trunks of trees covered with a rough and dry bark: but the mistake would soon be fatal; for the seemingly torpid animal, at the near approach of any living creature, instantly darts upon it, and carries it to the bottom. In the times of an inundation they sometimes enter the cottages of the natives, where they seize the first animal they meet with. There have been several examples of their taking a man out of a canoe in the sight of his companions, without their being able to lend him any assistance. The crocodile, however, except when pressed with hunger, or with a view of depositing its eggs, seldom leaves the water. Its usual method is to float along upon the surface, and seize whatever animals come within its reach; but when this method fails, it then goes closer to the bank. There it waits in patient expectation of some land animal that comes to drink; the dog, the bull, the tiger, or man himself. Nothing is to be seen as the animal approaches, nor is its retreat discovered till it is too late for safety. It seizes the victim with a spring, and goes at a bound much faster than such an unwieldy animal could be supposed to do; then having secured the creature both with teeth and claws, it drags it into the water, instantly sinks with it to the bottom, and in this manner quickly drowns it. Sometimes it happens, that the creature wounded by the crocodile makes its escape; in which case, the latter pursues with great celerity, and often takes it a second time. In these depredations, however, this terrible animal often seizes on another as formidable as itself, and meets with a desperate resistance. We are told of frequent combats between the crocodile and the tiger. All creatures of the tiger kind are continually oppressed by a parching thirst, that keeps them in the vicinity of great rivers, whither they descend to drink very frequently. On these occasions they are seized by the crocodile; upon whom they instantly turn with the greatest agility, and force their claws into his eyes, while he plunges with his fierce antagonist into the river. There they continue to struggle for some time, till at last the tiger is drowned. Notwithstanding all this, however, we are assured by Labat, that a negro, with no other weapon than a knife in his right hand, and his left arm wrapped round with a cow-hide, ventures boldly to attack this animal in its own element. As soon as he approaches the crocodile, he presents his left arm, which the animal swallows most greedily: but as it sticks in his throat, the negro has time to give it several stabs below the chin, where it is easily vulnerable; and the water also getting in at the mouth, which is held involuntarily open, the creature is soon bloated up as big as a tun, and expires.

The natives of Siam seem particularly fond of the capture of all the great animals with which their country abounds. The crocodiles are taken by throwing three or four strong nets across a river, at proper distances from each other; so that if the animal breaks through the first, it may be caught by one of the rest. When it is first taken, it employs the tail, which is the grand instrument of strength, with great force; but after many unsuccessful struggles, the animal's strength is at last exhausted. Then the natives approach their prisoner in boats, and pierce him in the most tender parts till he is weakened by loss of blood. When he has done stirring, they begin by tying up his mouth, and

Lacerta.

Lacerta.

and with the same cord tie his head to his tail, which last they bend back like a bow. However, they are not yet perfectly secure from his fury; but for their greater safety they tie his fore feet, as well as those behind, to the top of his back. These precautions are not useless; for if they were to omit them, the crocodile would soon recover strength enough to do a great deal of mischief. When thus brought into subjection, or when taken young and tamed, this formidable animal is used to divert and entertain the great men of the east. It is often managed like an horse; a curb is put into its mouth, and the rider directs it as he thinks proper. Though awkwardly formed, it does not fail to proceed with some degree of swiftness; and is thought to move as fast as some of the most unwieldy of our own animals, the hog or the cow. Some indeed assert, that no animal could escape it but for its slowness in turning; which, however, seems very improbable, as its back bone is full of articulations, and seemingly as flexible as that of other large animals.

All crocodiles breed near fresh waters; and though they are sometimes found in the sea, yet that may be considered rather as a place of excursion than abode. They produce their young by eggs, as was said above; and for this purpose, the female, when she comes to lay, chooses a place by the side of a river, or some fresh-water lake, to deposit her brood in. She always pitches upon an extensive sandy shore, where she may dig a hole without danger of detection from the ground being fresh turned up. The shore must also be gentle and shelving to the water, for the greater convenience of the animal's going and returning; and a convenient place must be found near the edge of the stream, that the young may have a shorter way to go. When all these requisites are adjusted, the animal is seen cautiously stealing up on shore to deposit her burden. The presence of a man, a beast, or even a bird, is sufficient to deter her at that time; and if she perceives any creature looking on, she infallibly returns. If, however, nothing appears, she then goes to work, scratching up the sand with her fore-paws, and making a hole pretty deep in the shore. There she deposits from 80 to 100 eggs, of the size of a tennis-ball, and of the same figure, covered with a tough white skin like parchment. She takes above an hour to perform this task; and then covering up the place so artfully that it can scarcely be perceived, she goes back to return again the next day. Upon her return with the same precaution as before, she lays about the same number of eggs; and the day following also a like number. Thus having deposited her whole quantity, and having covered them close up in the sand, they are soon vivified by the heat of the sun; and at the end of 30 days the young ones begin to break open the shell. At this time the female is instinctively taught that her young ones want relief; and she goes upon land to scratch away the sand and set them free. Her brood quickly avail themselves of their liberty; a part run unguided to the water; another part ascend the back of the female, and are carried thither in greater safety. But the moment they arrive at the water, all natural connection is at an end; when the female has introduced her young to their natural element, not only she, but the male, become amongst the number of their most formidable enemies, and devour as many of them as they can. The whole brood scatters into different parts

at the bottom; by far the greatest number are destroyed, and the rest find safety in their agility or minuteness.

But it is not the parent alone that is thus found to thin their numbers; the eggs of this animal are not only a delicious feast to the savage, but are eagerly sought after by every beast and bird of prey. The ichneumon was erected into a deity among the ancients for its success in destroying the eggs of these monsters: at present that species of the vulture called the *gallinazo* is their most prevailing enemy. All along the banks of great rivers, for thousands of miles, the crocodile is seen to propagate in numbers that would soon over-run the earth, but for the vulture, that seems appointed by Providence to abridge its fecundity. These birds are ever found in great numbers where the crocodile is most numerous; and hiding themselves within the thick branches of the trees that shade the banks of the river, they watch the female in silence, and permit her to lay all her eggs without interruption. Then when she has retired, they encourage each other with cries to the spoil; and flocking all together upon the hidden treasure, tear up the eggs, and devour them in a much shorter time than they were deposited. Nor are they less diligent in attending the female while she is carrying her young to the water; for if any one of them happens to drop by the way, it is sure to receive no mercy.

Such is the extraordinary account given us by late travellers of the propagation of this animal; an account adopted by Linnæus and the most learned naturalists of the age. Yet if one might argue from the general analogy of nature, the crocodile's devouring her own young when she gets to the water seems doubtful. This may be a story raised from the general idea of this animal's rapacious cruelty; when in fact the crocodile only seems more cruel than other animals, because it has more power to do mischief. It is probable that it is not more divested of parental tenderness than other creatures; and we are the more led to think so, from the peculiar formation of one of the crocodile kind, called,

2. The *open-bellied crocodile*; which is furnished with a false belly like the opossum, where the young creep out and in as their dangers or necessities require. The crocodile, thus furnished at least, cannot be said to be an enemy to her own young, since she thus gives them more than parental protection. It is probable also that this open-bellied crocodile is viviparous, and fosters her young that are prematurely excluded in this second womb until they come to proper maturity.

This crocodile is a species that was not described by Linnæus; but has been inserted in the *Systema Naturæ* since his death, under the name of *Lacerta gangetica*. Mr Edwards tells us, that three of these creatures were sent from Bengal about the year 1747, to the late Dr Mead physician in ordinary to the king. Two of them the Doctor preserved in his collection, and presented the third to the late curious Mrs Kennon; and since the decease of these worthy persons, they became the property of Mr James Lemon of London, who obliged our author with one of them to produce to the royal society. The narrowness of the beak is the most extraordinary circumstance in this crocodile, which appears like

Lacerta.

Lacerta. the bill of the bird called *gooseander*. It has small sharp teeth. Another peculiarity is a paunch or open purse in the middle of the under side of the belly, which seems to be naturally formed with round hips, and hollow within, to receive its young in time of danger, as it appears in the American animal called *opossum*. Dr Parsons gave it as his opinion, that the opening in the belly was really natural, it having no appearance of being cut or torn open. In other respects it hath all the marks common to alligators or crocodiles. The beak was finely creased transversely. The animal appeared in the spirits all over of a yellowish olive colour, the under side lighter than the upper, the latter having some dusky marks and spots. This species inhabits the banks of the Ganges; and it is very strange that they should never have been described before, as our India company have been so long settled there, and the animal is at full growth nearly, if not altogether, as large as the common crocodile.

How long the crocodile lives we are not certainly informed: if we may believe Aristotle, it lives the age of a man; but the ancients so much amused themselves in inventing fables concerning this animal, that even truth from them is suspicious. What we know for certain from the ancients is, that among the various animals that were produced to fight in the amphitheatre at Rome, the combat of the crocodile was not wanting. Marcus Scaurus produced them living in his unrivalled exhibitions; and the Romans considered him as the best citizen, because he furnished them with the most expensive entertainments.

3. The alligator, or American crocodile, has a vast mouth, furnished with sharp teeth; from the back to the end of the tail, serrated; skin tough and brown, and covered on the sides with tubercles. This dreadful species, which grows to the length of 17 or 18 feet, is found in the warmer parts of North America; and most numerous as we approach the south, and the more fierce and ravenous. Yet in Carolina it never devours the human species, but on the contrary shuns mankind; it will, however, kill dogs as they swim the rivers, and hogs which feed in the swamps. It is often seen floating like a log of wood on the surface of the water, and is mistaken for such by dogs and other animals, which it seizes and draws under water to devour at its leisure. Like the wolf, when pressed by long hunger, it will swallow mud, and even stones and pieces of wood. They often get into the weirs in pursuit of fish, and do much mischief by breaking them to pieces. They are torpid during the winter in Carolina; and retire into their dens, which they form by burrowing far under ground. It makes the entrance under water, and works upwards. In spring it quits its retreat, and resorts to the rivers, which it swims up and down; and chiefly seeks its prey near the mouth, where the water is brackish.—It roars and makes a dreadful noise at its first leaving its den, and against bad weather. It lays a vast number of eggs in the sand, near the banks of lakes and rivers, and leaves them to be hatched by the sun: multitudes are destroyed as soon as hatched either by their own species or by fish of prey. In South America the carrion vulture is the instrument of Providence to destroy multitudes; by that means preventing the country from being rendered uninhabitable.

4. The Cayman, or Antilles crocodile, which has by different authors been confounded with the two preceding species, is evidently different from both; and has accordingly been properly distinguished by the Abbe Bonnaterre in the *Encyclopédie Methodique*. See our figure, where the differences are so apparent as to require no detail.—The greatest strength of this animal, according to M. Merian, consists in its teeth, of which there are two rows crossing one another, by means of which it grinds with the greatest ease whatever it seizes upon. But it must not be understood from this that there is a double row of teeth, as Seba pretends, on each side of the under jaw; but only that there are two rows on each jaw, one on the right and the other on the left side.—The *Cayman* is so called from some small isles of that name among the Antilles, where these creatures are said to be very numerous. They are of exceeding strength, and equally the dread both of men and animals; for they live on land as well as in the water, and devour every creature they meet with.—Another figure is added, representing an egg with the young one at the time of breaking the shell. See the Plates.

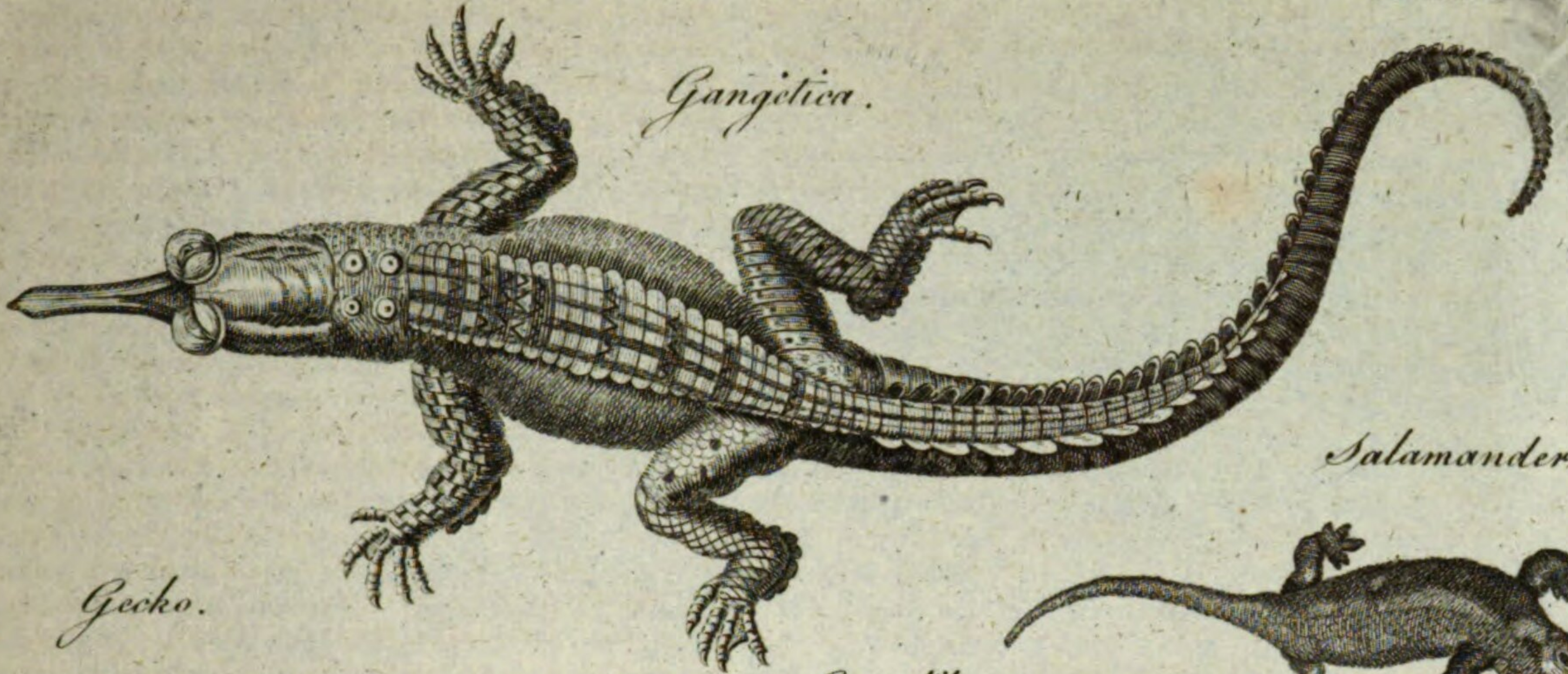
5. The caudiverbera, has a depressed pinnatifid tail, and palmated feet. It is larger than the common green lizard, is found in Peru, and has got its name from its beating the ground with its tail.

6. The scellio has a verticillated tail, and dentated scales. It is a native of Africa, and the warm parts of Asia. It frequents the ruinous walls of Natolia, Syria, and Palestine. The Arabs call it *hardun*. The Turks kill it; for they imagine, that, by declining the head, it mimics them while they say their prayers.

7. The agilis, has a pretty long verticillated tail, with sharp scales, and a scaly collar. This is the common green lizard, and is a native both of Europe and India. This species is extremely nimble: in hot weather it basks on the sides of dry banks or old trees; but, on being observed, immediately retreats to its hole. The food of this species, as well as of all the other British lizards, is insects; and they themselves are devoured by birds of prey. They are all perfectly harmless; yet their form strikes one with disgust, and has occasioned great obscurity in their history. Mr Pennant mentions a lizard killed in Worcestershire in the year 1714, which was two feet six inches long, and four inches in girth. The fore-legs were placed eight inches from the head; the hind-legs five inches beyond those: the legs were two inches long; the feet divided into four toes, each furnished with a sharp claw. Another of the same kind was afterwards killed in that county; but whether these large lizards were natives of other countries and imported into England, or whether they were of British growth, is uncertain.

8. The chamæleon has a crooked cylindrical tail. The head of a large chamæleon is almost two inches long, and from thence to the beginning of the tail it is four inches and a half. The tail is five inches long, and the feet two and a half. The thickness of the body is different at different seasons; for sometimes from the back to the belly it is two inches, and sometimes but one; for he can blow himself up and contract himself at pleasure. This swelling and contraction is not only of the back and belly, but also of the legs and tail.

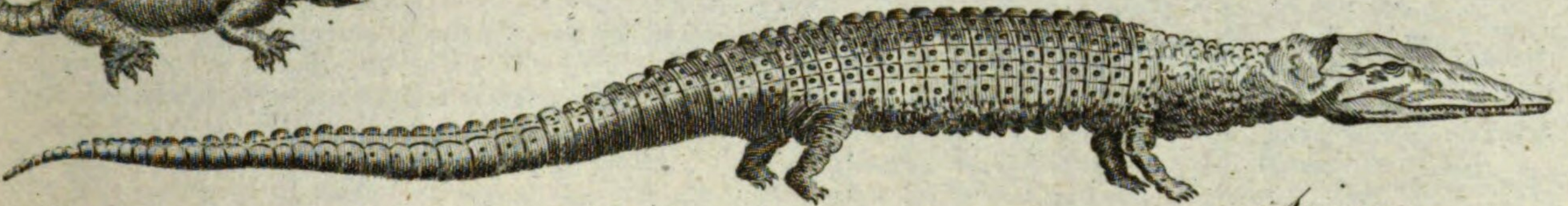
Gangetica.



Salamander.



Crocodile.



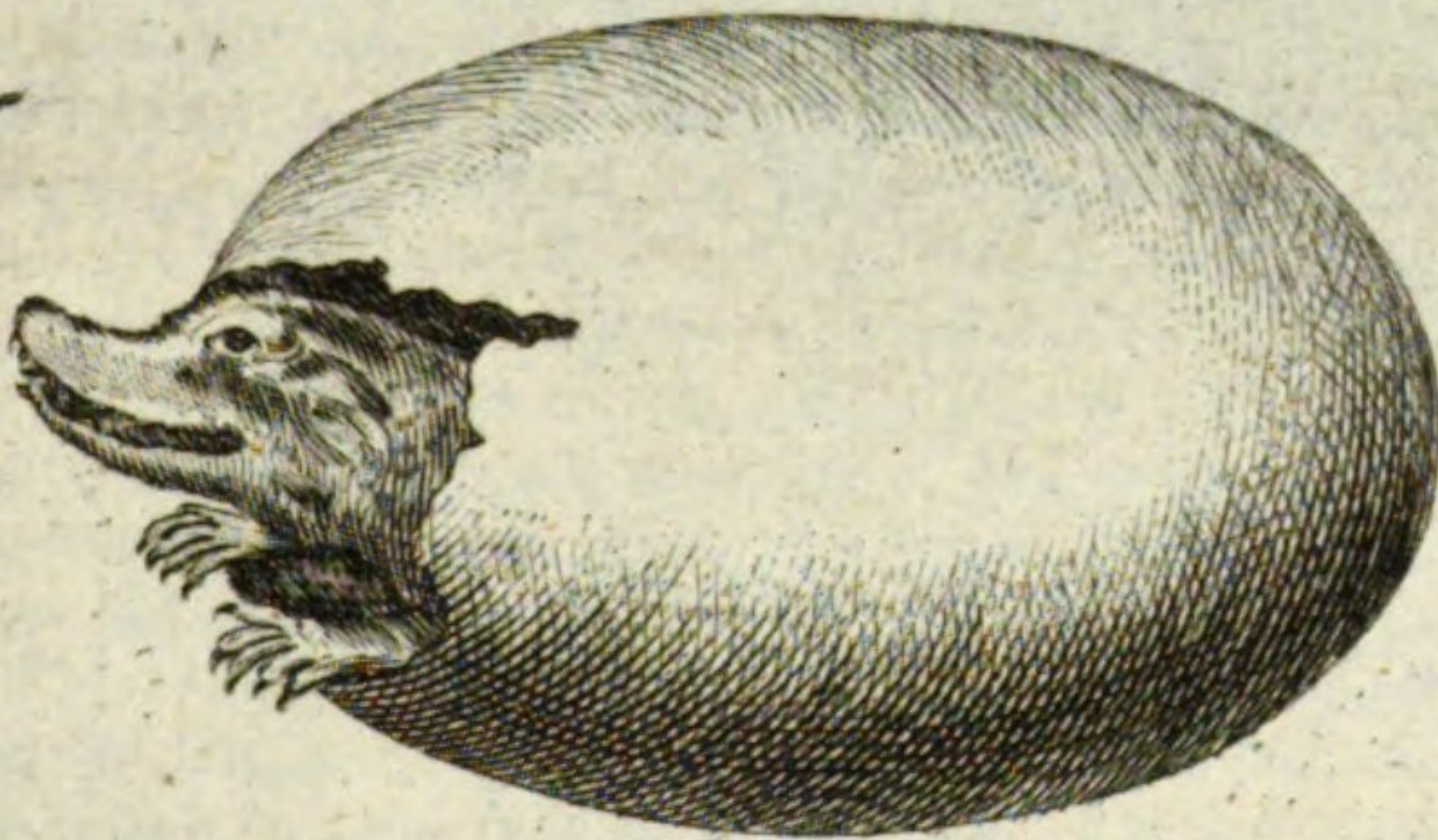
Gecko.



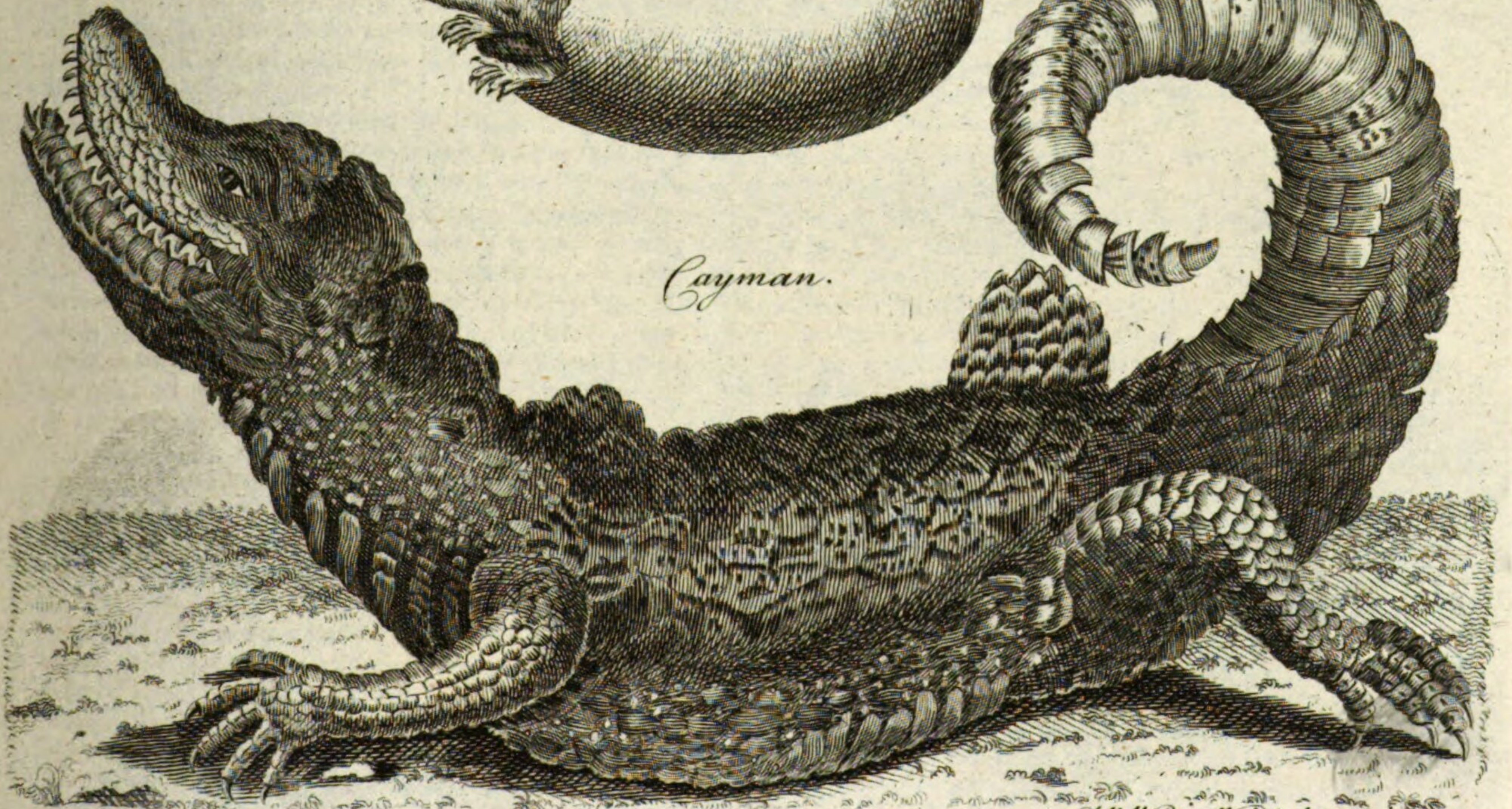
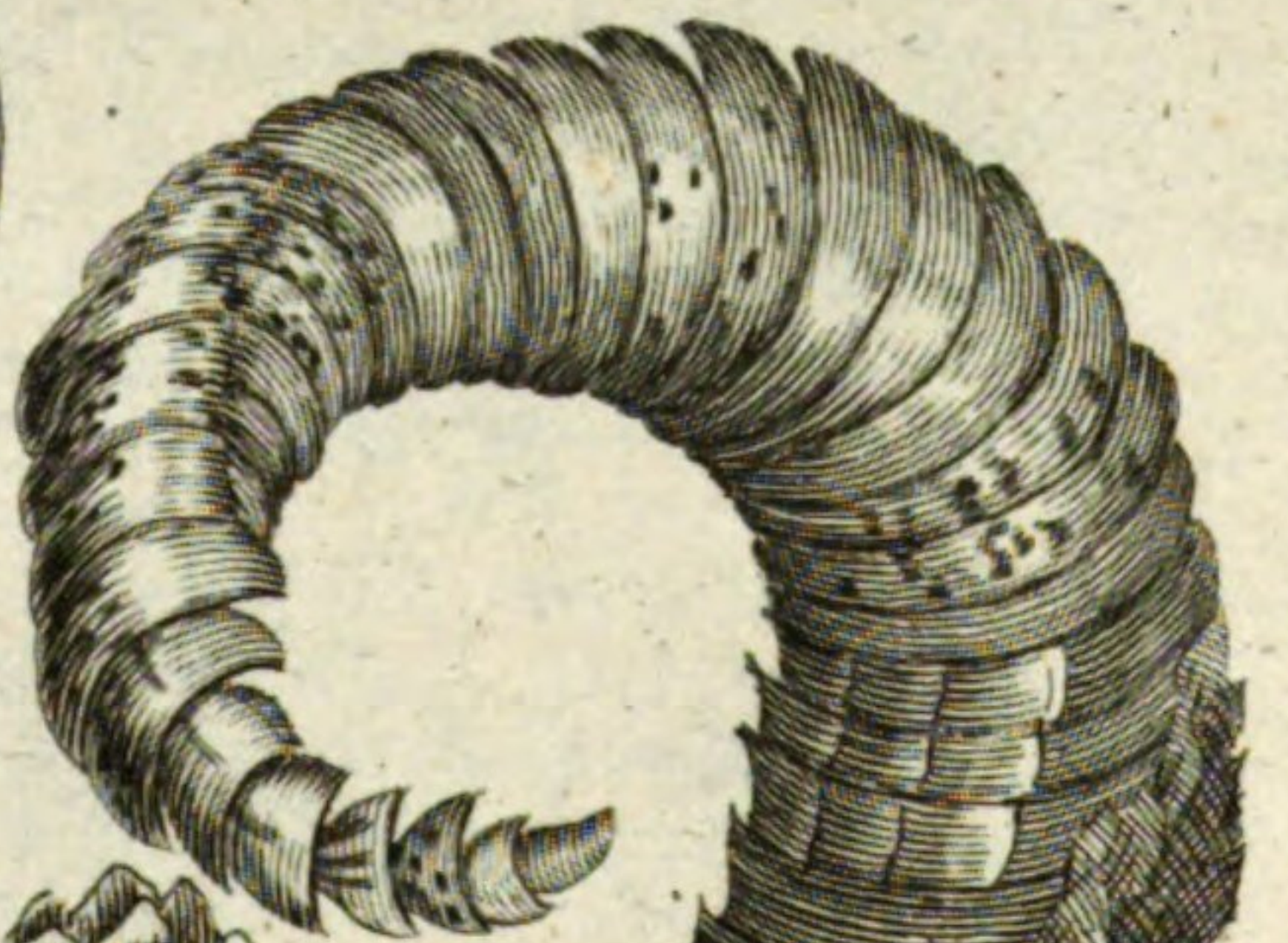
Stellio.



Scincus.



Cayman.



Lacerta.

Lacerta.

These different motions are not like those of other animals, which proceed from a dilatation of the breast in breathing, and which rises and falls successively; but they are very irregular, as in tortoises and frogs. The chamæleon has continued as it were blown up for two hours together, and then he would grow less and less insensibly; for the dilatation was always more quick and visible than the contraction. In this last state he appeared extremely lean, and the spine of the back was sharp, and all his ribs might be told; likewise the tendons of the arms and legs might be seen very distinctly.

The skin is very cold to the touch; and notwithstanding he seems so lean, there is no feeling the beating of the heart. The surface of the skin is unequal, and has a grain not unlike shagreen, but very soft, because each eminence is as smooth as if it was polished. Some of these are as large as a middling pin's head on the arms, legs, belly, and tail; but on the shoulders and head they are of an oval figure, and a little larger. Those under the throat are ranged in the form of a chaplet, from the lower lip to the breast. Some on the head and back are amassed together in clusters, with spaces between them, on which are almost imperceptible spots of a pale red and yellow colour, as well as the ground of the skin itself, which plainly appears between these clusters. This ground changes colour when the animal is dead, becoming of a greyish brown, and the small spots are whitish.

The colour of all those eminences, when the chamæleon is at rest in a shady place, is of a bluish grey, except on the claws, where it is white with a little yellow; and the spaces between the clusters is of a pale red and yellow, as was before observed. But when he is in the sun, all parts of the body which are affected with the light become of a greyish brown, or rather of a tawney. That part of the skin which the sun does not shine on, changes into several brighter colours, which form spots of the size of half one's finger. Some of these descend from the spine half way on the back; and others appear on the sides, arms, and tail. They are all of an Isabella colour, from a mixture of a pale yellow and of a bright red, which is the colour of the ground of the skin.

The head of a chamæleon is not unlike that of a fish, it being joined to the breast by a very short neck, covered on each side with cartilaginous membranes resembling the gills of fishes. There is a crest directly on the top of the head, and two others on each side above the eyes, and between these there are two cavities near the top of the head. The muzzle is blunt, and not much unlike that of a frog: at the end there is a hole on each side for the nostrils; but there are no ears, nor any sign of any.

The jaws are furnished with teeth, or rather with a bone in the form of teeth, which he makes little or no use of, because he lives upon swallowing flies and other insects without chewing them; and hence arose the vulgar notion of his living upon air, because he was never seen to eat. The tongue, which Linnaeus says resembles an earthworm, is of considerable length, and is enlarged and somewhat flattened at the end. From this member there continually oozes out a very glutinous liquor, by means of which it catches such insects as come within its reach, and it is surprising to see with what quickness it retracts its tongue the instant it has arrested any prey. The form, struc-

ture, and motion of the eyes, have something very particular; for they are very large, being almost half an inch in diameter. They are of a globous figure; which may be easily seen, because they stand out of the head. They have a single eye-lid like a cap, with a small hole in the middle, through which the sight of the eye appears, no bigger than a pin's head, and of a shining brown, encircled by a little ring of a gold colour. This eye-lid has a grain like shagreen, as well as the other parts of the skin; and when the rest of the body changes colour, and assumes spots of different shapes, those on the lid always keep the same form, though they are tinged with the same colour as the skin. But the most extraordinary thing relating to the eyes is, that this animal often moves one when the other is entirely at rest; nay, sometimes one eye will seem to look directly forward and the other backward, and one will look up to the sky when the other regards the earth.

That part of the body which is called the *trunk*, and comprehends the thorax and the belly in a chamæleon, is almost all thorax, with little or no belly. The four feet are all of a length; and the only difference between them is, that those before are turned backwards, and those behind forwards. There are five toes on each paw, which have a greater resemblance to hands than feet. They are all divided into two, which gives the appearance of two hands to each arm, and two feet to each leg; and though one of these parts have three toes, and the other but two, yet they seem to be all of the same size. These toes lie together under the same skin as in a mitten; however, their shape might be seen through the skin. With these paws the chamæleon can lay hold of the small branches of trees in the same manner as a parrot. When he is about to perch, he parts his toes differently from birds, because he puts two behind and two before. The claws are little, crooked, very sharp, and of a pale yellow, proceeding but half way out of the skin, while the other half is hid beneath it. His walk is slower than that of a tortoise, and he seems to move along with an affectation of gravity. He seems to seek for a proper place to set his feet upon; and when he climbs up trees, he does not trust to his feet like squirrels, but endeavours to find out clefts in the bark, that he may get a surer hold.

His tail is like that of a viper when it is puffed up and round; for otherwise the bones may be seen in the same manner as on the back. He always wraps his tail round the branches of trees, and it serves him as it were instead of a fifth hand.—He is a native of Africa and Asia. Mr Hasselquist is of opinion, that the change of colour in the chamæleon is owing to its being exceedingly subject to the jaundice, which particularly happens either when it is exposed to the sun or when it is made angry. The mixture of the bile with its blood is then very perceptible, and, as the skin is transparent, makes it spotted with green and yellow. He never saw it coloured with red, blue, or purple; and does not believe that ever it assumes these colours.

9. The gecko, has a cylindrical tail, concave ears, and a warty body. It is the Indian salamander of Bontius. "This animal is very frequent in Cairo (says Hasselquist), both in the houses and without them. The poison of this animal is very singular, as it exhales from the lobuli of the toes. The animal seeks

Lacerta. seeks all places and things impregnated with sea-salt, and, passing over them several times, leaves this very noxious poison behind it. In July 1750, I saw two women and a girl in Cairo at the point of death, from eating cheese new salted, bought in the market, and on which this animal had dropt its poison. Once at Cairo, I had an opportunity of observing how acrid the exhalations of the toes of this animal are, as it ran over the hand of a man who endeavoured to catch it; there immediately rose little pustules over all those parts the animal had touched; these were red, inflamed, and smarted a little, greatly resembling those occasioned by the stinging of nettles. It emits an odd sound, especially in the night, from its throat, not unlike that of a frog."

10. The *scincus* has a cylindrical tail compressed at the point, and blunt margined toes. This animal is found in Arabia Petræa near the Red Sea, and in Upper Egypt near the Nile. It is much used by the inhabitants of the east as an aphrodisiac, but not at this time by the Europeans. The flesh of the animal is given in powder, with some stimulating vehicle; broth made of the recent flesh is likewise used by the Arabs. It is brought from Upper Egypt and Arabia to Alexandria, whence it is carried to Venice and Marseilles, and from thence to all the apothecaries shops of Europe.

11. The *nilotica* has a long tail with a triangular edge, and four lines of scales on the back. It is met with in the moist places of Egypt near the Nile. The Egyptians say that this lizard proceeds from the eggs of the crocodile laid in the sand, but that the crocodile proceeds from those laid in the water. Mr Hasselquist hath detected the fallacy of this account.

12. The *palustris* has a lanceolated tail, and four toes on the fore-feet, and inhabits the stagnating waters of Europe. It has a slow and crawling pace. Mr Pennant mentions his having more than once found, under stones and old logs, some very minute lizards that had much the appearance of this kind: they were perfectly formed, and had not the least vestiges of fins; which circumstance, joined to their being found in a dry place remote from water, seems to indicate, that they had never been inhabitants of that element, as it is certain many of our lizards are in their first state. At that period they have a fin above and below their tail; that on the upper part extends along the back as far as the head; but both drop off as soon as the animal takes to the land, being then no longer of any use. Mr Ellis has remarked certain pennated fins at the gills of one very common in most of our stagnating waters, and which is frequently observed to take a bait like a fish.

13. The *salamandra*, or salamander, has a short cylindrical tail, four toes on the fore-feet, and a naked porous body. This animal has been said, even in the Philosophical Transactions, to live in the fire; but this is found to be a mistake. It is found in the southern countries of Europe. The following account of this species is extracted from the Count de la Cépède's Natural History of Serpents. Whilst the hardest bodies cannot resist the violence of fire, the world have endeavoured to make us believe that a small lizard can not only withstand the flames, but even extinguish them. As agreeable fables readi-

ly gain belief, every one has been eager to adopt that of a small animal so highly privileged, so superior to the most powerful agent in nature, and which could furnish so many objects of comparison to poetry, so many pretty emblems to love, and so many brilliant devices to valour. The ancients believed this property of the salamander, wishing that its origin might be as surprising as its power: and being desirous of realizing the ingenious fictions of the poets, they have pretended that it owes its existence to the purest of elements, which cannot consume it; and they have called it the daughter of fire, giving it however a body of ice. The moderns have followed the ridiculous tales of the ancients; and as it is difficult to stop when one has passed the bounds of probability, some have gone so far as to think that the most violent fire could be extinguished by the land salamander. Quacks sold this small lizard, affirming, that when thrown into the greatest conflagration, it would check its progress. It was very necessary that philosophers and naturalists should take the trouble to prove by facts what reason alone might have demonstrated; and it was not till after the light of science was diffused abroad, that the world gave over believing in this wonderful property of the salamander. This lizard, which is found in so many countries of the ancient world, and even in very high latitudes, has been however very little noticed, because it is seldom seen out of its hole, and because for a long time it has inspired much terror. Even Aristotle speaks of it as of an animal with which he was scarcely acquainted.

One of the largest of this species, preserved in the French king's cabinet, is seven inches five lines in length, from the end of the muzzle to the root of the tail, which is three inches eight lines. The skin does not appear to be covered with scales, but it is furnished with a number of excrescences like teats, containing a great many holes, several of which may be very plainly distinguished by the naked eye, and through which a kind of milk oozes, that generally spreads itself in such a manner as to form a transparent coat of varnish above the skin of this oviparous quadruped, naturally dry.

The eyes of the salamander are placed in the upper part of the head, which is a little flattened; their orbit projects into the interior part of the palate, and is there almost surrounded by a row of very small teeth, like those in the jaw bones: these teeth establish a near relation between lizards and fishes; many species of which have also several teeth placed in the bottom of the mouth. The colour of this lizard is very dark: upon the belly it has a bluish cast, intermixed with pretty large irregular yellow spots, which extend over the whole body, and even to the feet and eye-lids; some of these spots are besprinkled with small black specks; and those which are upon the back often touch without interruption, and form two long yellow bands. The colour must, however, be subject to vary; and it appears that some salamanders are found in the marshy forests of Germany, which are quite black above and yellow below. To this variety we must refer the black salamander, found by Mr Laurenti in the Alps, which he considered as a distinct species.

The salamander has no ribs; neither have frogs, to which it has a great resemblance in the general form of

Lacerta.

Lacerta.

of the anterior part of its body. When touched, it suddenly covers itself with that kind of coat of which we have spoken, and it can also very rapidly change its skin from a state of humidity to a state of dryness. The milk which issues from the small holes in its surface is very acrid; when put upon the tongue one feels as it were a kind of scar at the part which it touched. This milk, which is considered as an excellent substance for taking off hair, has some resemblance to that which distils from those plants called esula and euphorbium. When the salamander is crushed, or when it is only pressed, it exhales a bad smell, which is peculiar to it.

Salamanders are fond of cold damp places, thick shades, tufted woods, or high mountains, and the banks of streams that run through meadows: they sometimes retire in great numbers to hollow trees, hedges, and below old rotten stumps; and they pass the winter in places of high latitude, in a kind of burrows, where they are found collected, several of them being joined and twisted together. The salamander being destitute of claws, having only four toes on each of the fore feet, and no advantage of conformation making up its deficiencies, its manner of living must, as is indeed the case, be very different from that of other lizards. It walks very slowly; far from being able to climb trees with rapidity, it often appears to drag itself with great difficulty along the surface of the earth. It seldom goes far from the place of shelter which it has fixed on; it passes its life under the earth, often at the bottom of old walls during summer; it dreads the heat of the sun, which would dry it; and it is commonly only when rain is about to fall that it comes forth from its secret asylum, as if by a kind of necessity, to bathe itself, and to imbibe an element to which it is analogous. Perhaps it finds then with greatest facility those insects upon which it feeds. It lives upon flies, beetles, snails, and earth-worms; when it reposes, it rolls up its body in several folds like serpents. It can remain some time in the water without danger, and it casts a very thin pellicle of a greenish grey colour. Salamanders have even been kept more than six months in the water of a well without giving them any food; care only was taken to change the water often.

It has been remarked, that every time a salamander is plunged into the water, it attempts to raise its nostrils above the surface as if to seek for air, which is a new proof of the need that all oviparous quadrupeds have to breathe during the time they are not in a state of torpor. The salamander has apparently no ears, and in this it resembles serpents. It has even been pretended that it does not hear, and on this account it has got the name of *sourd* in some provinces of France. This is very probable, as it has never been heard to utter any cry, and silence in general is coupled with deafness.

Having then perhaps one sense less than other animals, and being deprived of the faculty of communicating its sensations to those of the same species, even by imperfect sounds, it must be reduced to a much inferior degree of instinct: it is therefore very stupid; and not bold, as has been reported: it does not brave danger, as is pretended, but it does not perceive it. Whatever gestures one makes to frighten it, it always

advances without turning aside; however, as no animal is deprived of that sentiment necessary for its preservation, it suddenly compresses its skin, as is said, when tormented, and spurts forth upon those who attack it that corrosive milk which is under it. If beat, it begins to raise its tail: afterwards it becomes motionless, as if stunned by a kind of paralytic stroke; for we must not, with some naturalists, ascribe to an animal so devoid of instinct, so much art and cunning as to counterfeit death. It short, it is difficult to kill it; but when dipped in vinegar, or surrounded with salt reduced to powder, it expires in convulsions, as is the case with several other lizards and worms.

It seems one cannot allow a being a chimerical quality, without refusing it at the same time a real property. The cold salamander has been considered as an animal endued with the miraculous power of resisting, and even of extinguishing, fire; but at the same time, it has been debased as much as elevated by this singular property. It has been made the most fatal of animals: the ancients, and even Pliny, have devoted it to a kind of anathema, by affirming that its poison is the most dangerous of all. They have written, that infecting with its poison almost all the vegetables of a large country, it might cause the destruction of *whole nations*. The moderns also for a long time believed the salamander to be very poisonous; they have said, that its bite is mortal, like that of the viper; they have sought out and prescribed remedies for it; but they have at length had recourse to observations, by which they ought to have begun. The famous Bacon wished naturalists would endeavour to ascertain the truth respecting the poison of the salamander. Gesner proved by experiments that it did not bite, whatever means were used to irritate it; and Wurfbainus showed that it might safely be touched, and that one might without danger drink the water of those wells which it inhabited. M. de Maupertuis studied also the nature of this lizard. In making researches to discover what might be its pretended poison, he demonstrated experimentally, that fire acted upon the salamander in the same manner as upon all other animals. He remarked, that it was scarcely upon the fire, when it appeared to be covered with the drops of its milk, which rarified by the heat, issued through all the pores of the skin, but in greater quantity from the head and dugs, and that it immediately became hard. It is needless to say, that this milk is not sufficiently abundant to extinguish even the smallest fire. M. de Maupertuis, in the course of his experiments, in vain irritated several salamanders: none of them ever opened their mouths; he was obliged to open them by force. As the teeth of this lizard are very small, it was very difficult to find an animal with a skin sufficiently fine to be penetrated by them: he tried without success to force them into the flesh of a chicken stripped of its feathers; he in vain pressed them against the skin: they were displaced, but they could not enter. He however made a salamander bite the thigh of a chicken, after he had taken off a small part of the skin. He made salamanders newly caught bite also the tongue and lips of a dog, as well as the tongue of a turkey; but none of these animals received the least injury. M. de Maupertuis afterwards made a dog and a turkey swallow salamanders whole, or cut into pieces; and yet

Lacerta.

neither

Lacerta.

neither of them appeared to be sensible of the least uneasiness.—Mr Laurenti since made experiments with the same view: he forced grey lizards to swallow the milk proceeding from the salamander, and they died very suddenly. The milk, therefore, of the salamander, taken internally, may hurt, and even be fatal to certain animals, especially those which are small; but it does not appear to be hurtful to large animals.

It was long believed that the salamander was of no sex; and that each individual had the power of engendering its like, as several species of worms. This is not the most absurd fable which has been imagined with respect to the salamander; but if the manner in which they come into the world is not so marvellous as has been written, it is remarkable in this, that it differs from that in which most other lizards are brought forth, as it is analogous to that in which the chalcide and the seps, as well as vipers and several kinds of serpents, are produced. On this account the salamander merits the attention of naturalists much more than on account of the false and brilliant reputation which it has so long enjoyed. M. de Maupertuis having opened some salamanders, found eggs in them, and at the same time some young perfectly formed; the eggs were divided into two long bunches like grapes, and the young were enclosed in two transparent bags; they were equally well formed as the old ones, and much more active. The salamander, therefore, brings forth young from an egg hatched within its belly as the viper; and her fecundity is very great: naturalists have long written that she has forty or fifty at one time; and M. de Maupertuis found 42 young ones in the body of a female salamander, and 54 in another.

The young salamanders are generally of a black colour, almost without spots; and this colour they preserve sometimes during their whole lives in certain countries, where they have been taken for a distinct species, as we have said. Mr Thunberg has given, in the Memoirs of the Academy of Sweden, the description of a lizard, which he calls the *Japanese lizard*, and which appears not to differ from our salamander but in the arrangement of its colours. This animal is almost black, with several whitish and irregular spots, both on the upper part of the body and below the paws; on the back there is a strip of dirty white, which becomes narrower to the point of the tail. This whitish stripe is interspersed with very small specks which form the distinguishing characteristic of our land salamander. We are of opinion, therefore, that we may consider this Japanese lizard, described by Mr Thunberg, as a variety of the species of our land salamander, modified a little, perhaps, by the climate of Japan. It is in the largest island of that empire, named *Nippon*, that this variety is found. It inhabits the mountains there, and rocky places. The Japanese consider it as a powerful stimulant, and a very active remedy; and on this account, in the neighbourhood of Jedo, a number of these Japanese salamanders may be seen dried, hanging from the ceiling of the shops.

14. The basiliskus, has a long cylindrical tail, a radiated fin on the back, and a crest on the throat. It is a native of the Indies. It is a very harmless creature; and altogether destitute of those wonderful qualities

N^o 173.

which have been attributed to the fabulous animal of the same name. See the article *BASILISK*. Lacerta.

15. The sex-lineata, or lion-lizard, is about six inches long; the body of a grey colour, marked lengthwise on each side with three whitish lines: the legs are long; and it has a very long tail, which it curls up, looking fierce at the same time, whence probably it has received its English name. It inhabits South Carolina and the greater Antilles. It is very inoffensive, and remarkably agile; but is a prey to rapacious birds.

16. The green lizard of Carolina is so denominated from its colour. This species is very slender; the tail is near double the length of the body, and the whole length about five inches. It inhabits Carolina; where it is domestic, familiar, and harmless. It sports on tables and windows, and amuses with its agility in catching flies. Cold affects the colours: in that uncertain climate, when there is a quick transition in the same day from hot to cold, it changes instantly from the most brilliant green to a dull brown. They are a prey to cats and ravenous birds. They appear chiefly in summer; and at the approach of cold weather they retire to their winter recesses, and lie torpid in the hollows and crevices of rotten trees. It frequently happens that a few warm sunshiny days so invigorate them, that they will come out of their holes and appear abroad; when on a sudden the weather changing to cold, so enfeebles them, that they are unable to return to their retreats, and will die of cold.

17. The iguana, or guana, with the top of the back and tail strongly serrated, and the gullet serrated in the same manner, is sometimes found to be five feet long. It has small teeth, and will bite hard. It inhabits the rocks of the Bahama islands, and lurks in cliffs or hollow trees. It feeds entirely on vegetables and fruits; and the fat of the abdomen assumes the colour of that which it has last eaten. It is slow of motion, and has a most disgusting look; yet it is esteemed a most delicate and wholesome food, noxious only to venereal patients, according to Linnæus. It is not amphibious, yet on necessity will continue long under water; it swims by means of the tail, keeping its legs close to the body. Guanans are the support of the natives of the Bahama islands, who go in their sloops from rock to rock in search of them. They are taken with dogs trained for the purpose; and as soon as caught, their mouths are sewed up, to prevent them from biting. Some are carried alive for sale to Carolina; others salted and barrelled for home-consumption.

18. The bullaris, or green lizard of Jamaica, is about six inches long, of a shining grass-green colour. It is common in Jamaica, frequenting hedges and trees. When approached to, these animals, by filling their throat with wind, swell it into a globular form with a scarlet colour; which, when contracted, the scarlet disappears, and the part returns to the colour of the rest of the body. The figure represents the animal with its throat thus inflated. This swelling action seems to proceed from menacing, or deterring one from coming near them, though they are very inoffensive.

19. The muricata, or prickly lizard, has a long rounded tail; its body, which is of a brownish grey colour, is covered with sharp-pointed scales, and the whole

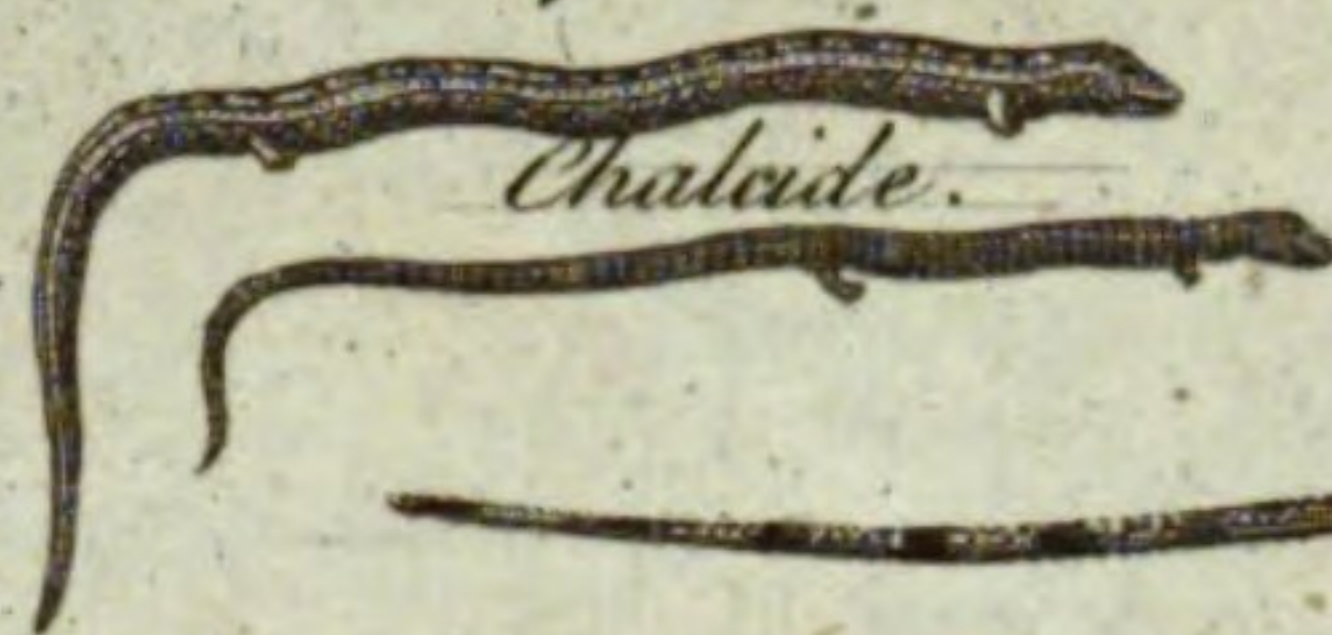
Green



Bullaris.



Scps.

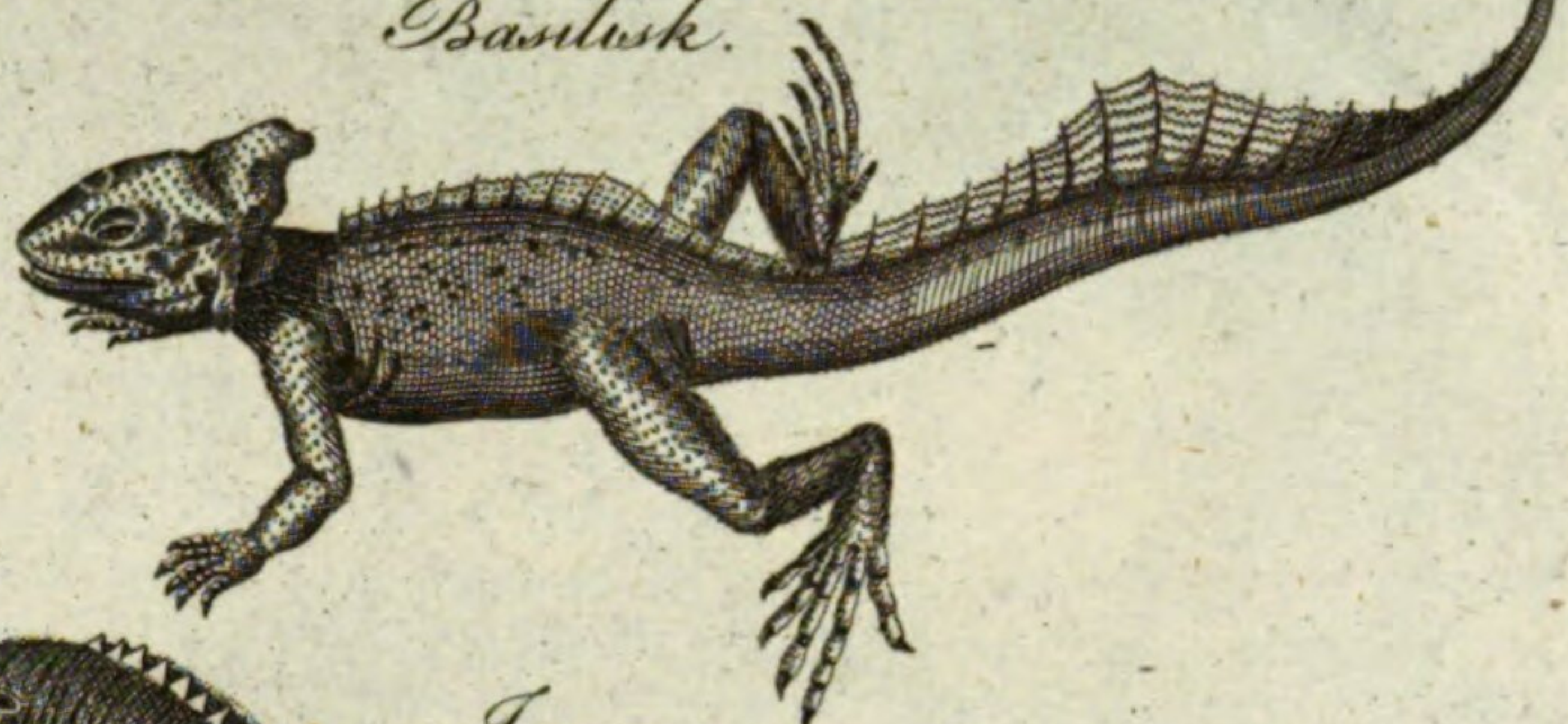


Chalcide.

Muricata.



Basilisk.



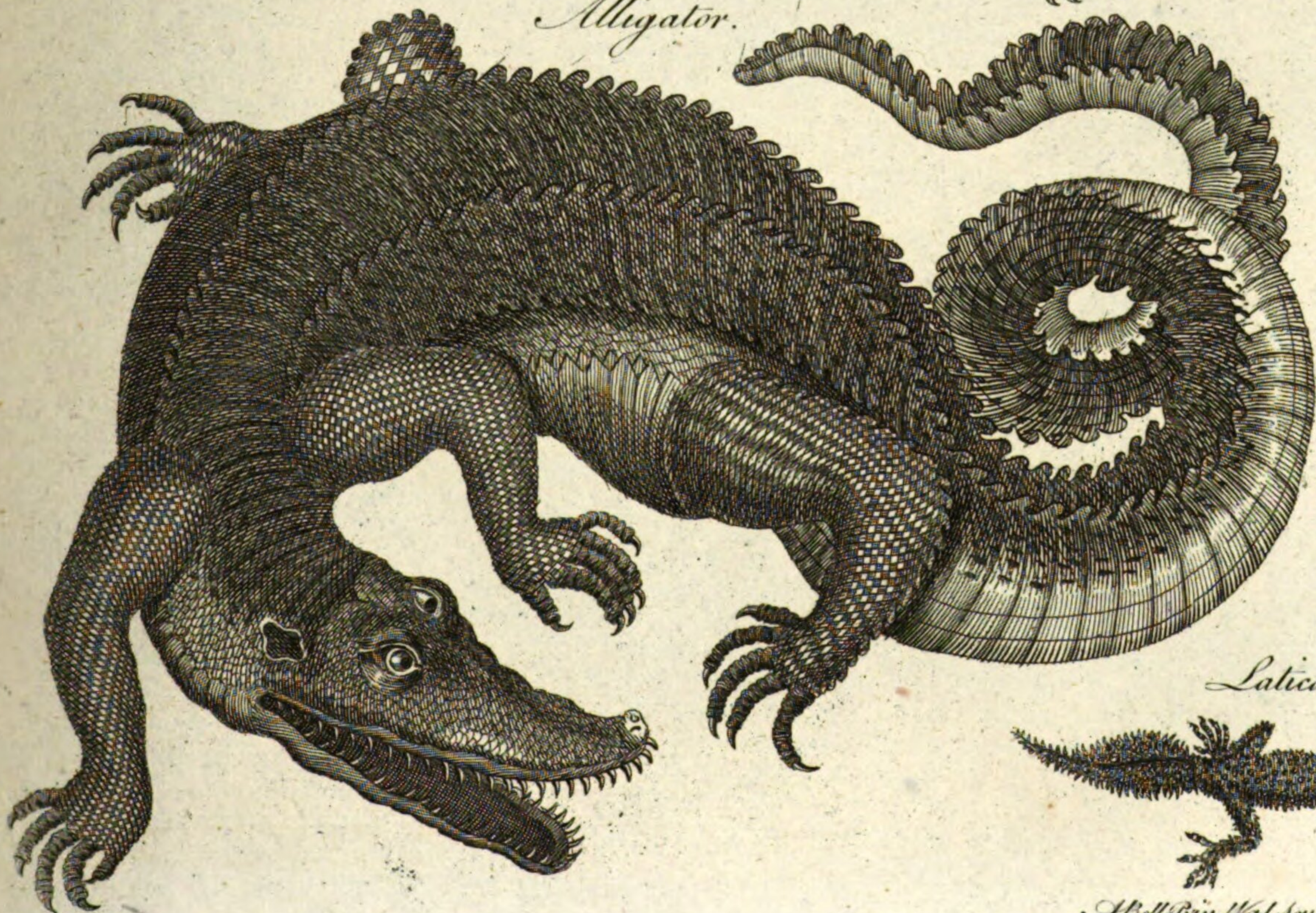
Chameleon.



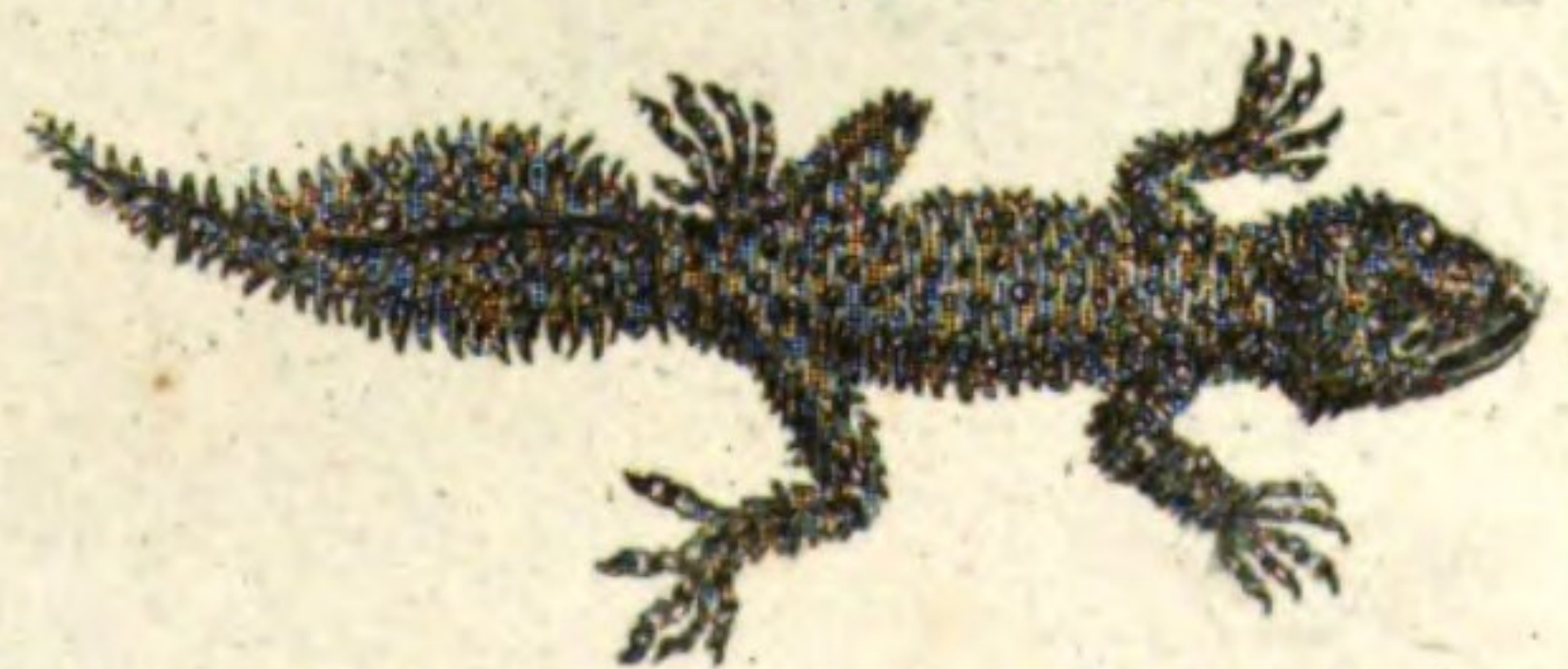
Iguana.



Alligator.



Laticauda.



Abell Pin. Wal. sculptor fecit.

Laches whole upper part marked with transverse dusky bars. The scales are furnished with a prominent line on the upper surface, and toward the back part of the head almost run into a sort of weak spines.

||
Lachryma-
tory.

20. The *laticauda*, or broad-tailed lizard, has a flattened lanceolate tail, somewhat spiny on the margin. It is about four inches and a half in length. The head is disproportionably large. The upper surface of the body is of a dusky grey colour, and beset with small tubercles, which in some parts sharpen to a point. The colour of the under surface of the body is pale, or almost white. This and the preceding species are inhabitants of New South Wales.

There are above 60 other species of this genus; two of which, the *seps* and *chalcides*, being very different from the other species, and approaching in form to the serpent tribe, figures of them are added in the Plates. A similar species is the *bipes*, transferred to this genus, in the last edition of the *Systema Naturæ*, from the *Anguis* of former editions, where it was called the *anguis bipes*. See **ANGUIS**.

LACHES, (from the French *lâcher*, i. e. *laxare*, or *lâche*, *ignavus*), in the English law signifies slackness or negligence, as it appears in Littleton, where *laches of entry* is a neglect of the heir to enter. And probably it may be an old English word: for where we say there is *laches* of entry, it is all one as if it were said there is a *lack* of entry; and in this signification it is used. No *laches* shall be adjudged in the heir within age; and regularly, *laches* shall not bar infants or femme covert for not entry or claim, to avoid descents; but *laches* shall be accounted in them for non-performance of a condition annexed to the state of the land.

LACHESIS, in mythology, one of the *Parcæ*. Her name is derived from *λαχίζω*, to measure out by lot. She presided over futurity, and was represented as spinning the thread of life, or, according to others, holding the spindle. She generally appeared covered with a garment variegated with stars, and holding spindles in her hand.

LACHISH, (anc. geog.) a city southward of the tribe of Judah. Eusebius and St Jerom tell us, that in their time there was a village called *Lachish*, seven miles from Eleutheropolis, southward. Sennacherib besieged Lachish, but did not take it. From thence it was that he sent Rabshakeh against Jerusalem. Here King Amaziah was slain by his rebel subjects.

LACHNEA, in botany: A genus of the monogynia order, belonging to the octandria class of plants; and in the natural method ranking under the 31st order, *Vepreculæ*. There is no calyx; the corolla is quadrid with the limb unequal; there is one seed a little resembling a berry.

LACHRYMAL, in anatomy, an appellation given to several parts of the eye. See **ANATOMY**, p. 766. col. 1.

LACHRYMATORY, in antiquity, a vessel where-in were collected the tears of a deceased person's friends, and preserved along with the ashes and urn. They were small glass or earthen bottles, chiefly in the form of phials. At the Roman funerals, the friends of the deceased, or the *præfices*, women hired for that purpose, used to fill them with their tears, and deposit them very carefully with the ashes in testimony of their

sorrow, imagining the manes of the deceased were thereby greatly comforted. Many specimens of them are preserved in the cabinets of the curious, particularly in the British Museum.

Lacinium
||
Lacquers.

LACINIUM (anc. geog.), a noble promontory of the Brutii in Italy, the south boundary of the Sinus Tarentinus and the Adriatic; all to the south of it being deemed the Ionian Sea: it was famous for a rich temple of Juno, surnamed *Lacinia*, with a pillar of solid gold standing in it; which Hannibal intending to carry off, was, according to Cicero, dissuaded by a dream. Now *Capo delle Colonne*, from the columns of Juno's temple still standing on the north-east coast of the Calabria ultra.

LACK OF RUPEES, is 100,000 rupees; which, supposing them standard, or ficas, at 2s. 6d. amounts to 12,500 l. Sterling.

LACONIA, or **LACONICA**, a country on the southern parts of Peloponnesus, having Argos and Arcadia on the north, Messenia on the west, the Mediterranean on the south, and the bay of Argos at the east. Its extent from north to south was about 50 miles. It was watered by the river Eurotas. The capital was called Sparta, or Lacedæmon: (See **LACEDÆMON** and **SPARTA**.) The brevity with which the Laconians always expressed themselves is now become proverbial; and by the epithet of *Laconic*, we understand whatever is concise, and is not loaded with unnecessary words.

LACONICUM, (whence our term *laconic*), a short pithy sententious speech, such as the Lacedæmonians were remarkable for: Their way of delivering themselves was very concise, and much to the purpose. See the preceding article.

LACQUERS, are varnishes applied upon tin, brass, and other metals, to preserve them from tarnishing, and to improve their colour. The basis of lacquers is a solution of the resinous substance called *seed lac*, in spirit of wine. The spirit ought to be very much dephlegmated, in order to dissolve much of the lac. For this purpose, some authors directly dry potash to be thrown into the spirit. This alkali attracts the water, with which it forms a liquid that subsides distinctly from the spirit at the bottom of the vessel. From this liquid the spirit may be separated by decantation. By this method the spirit is much dephlegmated; but, at the same time, it becomes impregnated with part of the alkali, which depraves its colour, and communicates a property to the lacquer of imbibing moisture from the air. These inconveniences may be prevented by distilling the spirit; or, if the artist has not an opportunity of performing that process, he may cleanse the spirit in a great measure from the alkali, by adding to it some calcined alum; the acid of which uniting with the alkali remaining in the spirit, forms with it a vitriolated tartar, which, not being soluble in spirit of wine, falls to the bottom together with the earth of the decomposed alum. To a pint of the dephlegmated and purified spirit, about three ounces of powdered shell-lac are to be added; and the mixture to be digested during some day with a moderate heat. The liquor ought then to be poured off, strained, and cleared by settling. This clear liquor is now fit to receive the required colour from certain resinous colouring substances, the

Lactacio.

principal of which are gamboge and annotto; the former of which gives a yellow, and the latter an orange colour. In order to give a golden colour, two parts of gamboge are added to one of annotto; but these colouring substances may be separately dissolved in the tincture of lac, and the colour required may be adjusted by mixing the two solutions in different proportions. When silver leaf or tin are to be lacquered, a larger quantity of the colouring materials are requisite than when the lacquer is intended to be laid on brads.

Motherby's
Medical
Dictionary.

LACTATIO, LACTATION, among medical writers, denotes the *giving suck*. The mother's breast, if possible, should be allowed the child, at least during the first month; for thus the child is more peculiarly benefited by what it sucks, and the mother is preserved from more real inconveniences than the falsely delicate imagine they would suffer by compliance herewith: but if by reason of an infirm constitution, or other causes, the mother cannot suckle her child, let dry nursing under the mother's eye be pursued.

When women lose their appetite by giving suck, both the children and themselves are thereby injured; wet nurses are to be preferred, who, during the time they give the breast, have rather an increased appetite, and digest more quickly; the former are apt to waste away, and sometimes die consumptive. In short, those nurses with whom lactation may for a while agree, should wean the child as soon as their appetite lessens, their strength seems to fail, or a tendency to hysteric symptoms are manifest.

When the new-born child is to be brought up by the mother's breast, apply it thereto in ten or twelve hours after delivery; thus the milk is sooner and more easily supplied, and there is less hazard of a fever than when the child is not put to it before the milk begins to flow of itself.

If the mother does not suckle her child, her breasts should be so kept warm with flannels, or with a hare-skin, that a constant perspiration may be supported; thus there rarely will arise much inconvenience from the milk.

The child, notwithstanding all our care in dry nursing, sometimes pines if a breast is not allowed. In this case a wet nurse should be provided, if possible one that hath not been long delivered of a child. She should be young, of a healthy habit, and an active disposition, a mild temper, and whose breasts are well filled with milk. If the milk is good, it is sweetish to the taste, and totally free from saltiness; to the eye it appears thin, and of a bluish cast. That the woman hath her menses, if in other respects objections are not made, this need not be any; and as to the custom with many, of abstaining from venery while they continue to suckle a child, it is so far without reason to support it, that the truth is, a rigorous chastity is as hurtful, and often more pernicious, than an immoderate use of venery. Amongst the vulgar errors, is that of red-haired women being improper for wet nurses.

If the menses do not appear during the first months, but after six or eight months suckling they begin to descend, the child should be weaned.

Wet nurses should eat at least one hearty meal of animal-food every day; with this a proper quantity of vegetables should be mixed. Thin broth or milk are

proper for their breakfasts and their suppers; and if the strength should seem to fail a little, a draught of good ale should now and then be allowed: but spirituous liquors must in general be forborne; not but a spoonful of rum may be allowed in a quart of milk and water, (*i. e.* a pint of each), which is a proper common drink.

Though it is well observed by Dr Hunter, that the far greater number of those women who have cancers in the breast or womb are old maids, and those who refuse to give suck to their children; yet it is the unhappiness of some willing mothers not to be able: for instance, those with tender constitutions, and who are subject to nervous disorders; those who do not eat a sufficient quantity of solid food, nor enjoy the benefit of exercise and air: if children are kept at their breasts, they either die whilst young, or are weak and sickly after childhood is past, and so on through remaining life.

LACTANTIUS, (Lucius Caelius Firmianus), a celebrated author at the beginning of the 4th century, was, according to Baronius, an African; but, according to others, was born at Fermo in the marquise of Ancona, from whence it is imagined he was called *Firmianus*. He studied rhetoric under Arnobius; and was afterwards a professor of that science in Africa and Nicomedia, where he was so admired, that the emperor Constantine chose him preceptor to his son Crispus Cæsar. Lactantius was so far from seeking the pleasures and riches of the court, that he lived there in poverty, and, according to Eusebius, frequently wanted necessaries. His works are written in elegant Latin. The principal of which are, 1. *De ira divina*. 2. *De operibus Dei*, in which he treats of the creation of man, and of divine providence. 3. *Divine Institutions*, in seven books. This is the most considerable of all his works: he there undertakes to prove the truth of the Christian religion, and to refute all the difficulties that had been raised against it; and he solidly, and with great strength, attacks the illusions of paganism. His style is pure, clear, and natural, and his expressions noble and elegant, on which account he has been called the *Cicero of the Christians*. There is also attributed to him a treatise *De morte persecutorum*; but several of the learned doubt its being written by Lactantius. The most copious edition of Lactantius's works is that of Paris in 1748, 2 vols 4to.

LACTEALS, or LACTEAL VESSELS, a kind of long slender tubes for the conveyance of the chyle from the intestines to the common reservoir. See ANATOMY, n° 105.

LACTIFEROUS, an appellation given to plants abounding with a milky juice, as the sow-thistle and the like. The name of *lactiferous*, or *lactescent*, is given to all those plants which abound with a thick-coloured juice, without regarding whether it is white or not. Most lactiferous plants are poisonous, except those with compound flowers, which are generally of an innocent quality.

Of the poisonous lactescent plants the most remarkable are fumach, agaric, maple, burning thorny plant, cassida, celandine, puccoon, prickly poppy, and the plants of the natural order *contorta*, as swallow-wort, apocynum, cynanchum, and cerbera.

The bell-shaped flowers are partly noxious, as cardinal flower; partly innocent, as campanula.

Among

Lactantius
||
Lactiferous.
|
rous.

Lactuca.

Among the lactescent plants with compound flowers that are innocent in their quality, may be mentioned dandelion, picris, hyoseris, wild lettuce, gum-succory, hawk-weed, bastard hawk-weed, hypochæris, goat's-beard, and most species of lettuce: we say most species, because the prickly species of that genus are said to be of a very virulent and poisonous nature; though Mr Lightfoot denies this, and affirms that they are a safe and gentle opiate, and that a syrup made from the leaves and stalks is much preferable to the common diacodium.

LACTUCA, in botany: A genus of the polygamia æqualis order, belonging to the syngenesia class of plants; and in the natural method ranking under the 49th order, *Compositæ*. The receptacle is naked; the calyx imbricated, cylindrical, with a membranaceous margin; the pappus is simple, stipated, or stalked. There are several species, most of which are plants of no use, and never cultivated but in botanic gardens for variety. Those commonly cultivated in the kitchen-garden for use, are, 1. The common or garden lettuce. 2. Cabbage lettuce. 3. Silesia lettuce. 4. Dutch brown lettuce. 5. Aleppo lettuce. 6. Imperial lettuce. 7. Green capuchin lettuce. 8. Versailles or upright white Cos lettuce. 9. Black Cos. 10. Red Cos. 11. Red capuchin lettuce. 12. Roman lettuce. 13. Prince lettuce. 14. Royal lettuce. 15. Egyptian Cos lettuce.

Culture, &c. The first of these sorts is very common in all gardens, and is commonly sown for cutting very young, to mix with other salad herbs in spring; and the second, or cabbage lettuce, is only this mended by culture. It may be sown at all times of the year, but in the hot months requires to be sown in shady borders. The cabbage-lettuce may also be sown at different seasons, to have a continuation of it through the summer. The first crop should be sown in February, in an open situation; the others at three weeks distance; but the later ones under covert, but not under the drippings of trees. The Silesia, imperial, royal, black, white, and upright Cos lettuces, may be first sown in the latter end of February or the beginning of March, on a warm light soil, and in an open situation; when the plants are come up, they must be thinned to 15 inches distance every way, they will then require no farther care than the keeping them clear of weeds; and the black Cos, as it grows large, should have its leaves tied together to whiten the inner part. Succeeding crops of these should be sown in April, May, and June; and toward the latter end of August they may be sown for a winter crop, to be preserved under glasses, or in a bed arched over with hoops and covered with mats. The most valuable of all the English lettuces are the white Cos or the Versailles, the Silesia, and the black Cos. The brown Dutch and the green capuchin are very hardy, and may be sown late under walls, where they will stand the winter, and be valuable when no others are to be had. The red capuchin, Roman, and prince lettuce, are very early kinds, and are sown for variety; as are also the Aleppo ones for the beauty of their spotted leaves.

Properties. The several sorts of garden lettuces are very wholesome, emollient, cooling salad herbs, easy of digestion, and somewhat loosening the belly. Most

writers suppose that they have a narcotic quality; and indeed in many cases they contribute to procure rest; this they effect by abating heat, and relaxing the fibres. The seeds are in the number of the four lesser cold seeds.

The virofa, or strong-scented wild lettuce, which is indigenous in Britain, and grows in some places in considerable abundance, differs very essentially in its qualities from the garden lettuce. Although it has not been introduced into any of the modern pharmacopœias, yet it has of late been highly extolled for some purposes in medicine. It smells strongly of opium, and resembles it in some of its effects; and its narcotic power, like that of the poppy heads, resides in its milky juice. An extract from the expressed juice is recommended in small doses in dropsy. In dropsies of long standing, proceeding from visceral obstructions, it has been given to the extent of half an ounce a-day. It is said to agree with the stomach, to quench thirst, to be gently laxative, powerfully diuretic, and somewhat diaphoretic. Plentiful dilution is allowed during its operation. Dr Collin of Vienna asserts, that out of 24 dropical patients, all but one were cured by this medicine.

LACUNÆ, among anatomists, certain excretory canals in the genital parts of women.

LACUNAR, in architecture, an arched roof or ceiling, more especially the planking or flooring above porticos or piazzas.

LACYDES, a Greek philosopher, born at Cyrene, was the disciple of Arcefilaus, and his successor in the academy. He taught in a garden given him by Attalus king of Pergamus; but that prince sending for him to court, he replied, "That the pictures of kings should be viewed at a distance." He imitated his master in the pleasure he took in doing good without caring to have it known: he had a goose which followed him every where by night as well as by day; and when she died, he made a funeral for her, which was as magnificent as if it had been for a son or a brother. He taught the same doctrine as Arcefilaus; and pretended that we ought to determine nothing, but always to suspend our opinion. He died 212 B. C.

LADDER, a frame made with a number of steps, by means of which people may ascend as on a stair to places otherwise inaccessible.

Scaling LADDERS, in the military art, are used in scaling when a place is to be taken by surprise. They are made several ways: here we make them of flat staves, so that they may move about their pins, and shut like a parallel ruler, for conveniently carrying them: the French make them of several pieces, so as to be joined together, and to be made of any necessary length: sometimes they are made of single ropes, knotted at proper distances, with iron hooks at each end, one to fasten them upon the wall above, and the other in the ground; and sometimes they are made with two ropes, and staves, between them, to keep the ropes at a proper distance, and to tread upon. When they are used in the action of scaling walls, they ought to be rather too long than too short, and to be given in charge only to the stoutest of the detachment. The soldiers should carry these ladders with the left arm passed through the second step, taking care to hold them upright close to their sides, and very

Lacunæ

||
Ladder.

Laden
||
Ladogna.

very short below, to prevent any accident in leaping into the ditch.

The first rank of each division, provided with ladders, should set out with the rest at the signal, marching resolutely with their firelocks slung, to jump into the ditch; when they are arrived, they should apply their ladders against the parapet, observing to place them towards the salient angles rather than the middle of the curtain, because the enemy have less force there. Care must be taken to place the ladders within a foot of each other, and not to give them too much nor too little slope, so that they may not be overturned or broke with the weight of the soldiers mounting upon them.

The ladders being applied, they who have carried them, and they who come after, should mount up, and rush upon the enemy sword-in-hand; if he who goes first, happens to be overturned, the next should take care not to be thrown down by his comrade; but, on the contrary, immediately mount himself, so as not to give the enemy time to load his piece.

As the soldiers who mount first may be easily tumbled over, and their fall may cause the attack to fail, it would perhaps be right to protect their breasts with the fore-parts of cuirasses; because, if they can penetrate, the rest may easily follow.

The success of an attack by scaling is infallible, if they mount the four sides at once, and take care to shower a number of grenades amongst the enemy, especially when supported by some grenadiers and picquets, who share the attention and fire of the enemy.

LADEN, in the sea-language, the state of a ship when she is charged with a weight or quantity of any sort of merchandises, or other materials, equal to her tonage or burden. If the cargo with which she is laden is extremely heavy, her burden is determined by the weight of the goods; and if it is light, she carries as much as she can *flow*, to be fit for the purposes of navigation. As a ton in measure is generally estimated at 2000 lb. in weight, a vessel of 200 tons ought accordingly to carry a weight equal to 400,000 lb. when the matter of which the cargo is composed is specifically heavier than the water in which she floats; or, in other words, when the cargo is so heavy that she cannot float high enough with so great a quantity of it as her hold will contain.

LADEN in *Bulk*, the state of being freighted with a cargo which is neither in casks, boxes, bales, nor cases, but lies loose in the hold; being defended from the moisture or wet of the hold, by a number of mats and a quantity of *dunage*. Such are usually the cargoes of corn, salt, or such materials.

LADENBURG, a town of Germany in the Palatinate of the Rhine, seated on the river Neckar, in E. Long. 8. 42. N. Lat. 49. 27. It belongs to the bishopric of Worms, and the elector Palatine.

LADISLAUS, the name of several kings of Poland. See POLAND.

LADOGA, a town of the Russian empire, seated on a great lake of the same name, which has a communication with the gulf of Finland, by the river Nieva; and it abounds in fish, particularly salmon. E. Lon. 33. 29. N. Lat. 60. 0.

LADOGNA, or LACEDOGNA, a town of Italy, in the kingdom of Naples, and in the Capitanata,

with a bishop's see. E. Long. 15. 12. N. Lat. 41. 16.

LADON (anc. geog.) a river of Arcadia falling into the ALPHEUS. The metamorphosis of Daphne into a laurel, and of Syrinx into a reed happened near its banks.

LADRONE or MARIAN islands, a cluster of twelve islands lying in the Pacific Ocean, in about 145° of east longitude, and between the 11th and 21st degree of north latitude. They were first discovered by Magellan, who sailed round the world through the Straits which bear his name. He gave them the name of *Ladrone Islands*, or the *Islands of Thieves*, from the thievish disposition of the inhabitants. At the time these islands were discovered by the Europeans, the natives were totally unacquainted with any other country besides their own; and having no traditionary accounts of their own origin, they imagined that the author of their race was formed of a piece of the rock of Funa, one of their smallest islands. Many things looked upon by us as absolutely necessary to our existence, were utterly unknown to these people. They had no animals of any sort; and would not even have had any idea of them, had it not been for the birds; and even of them they had but one species, somewhat like the turtle-dove, which they never killed for eating, but only tamed them, and taught them to speak. They were much astonished on seeing a horse which a Spanish captain left among them in 1673, and could not for a long time be satisfied with admiring him. But what is most surprising and incredible in their history is, that they were utterly unacquainted with the element of fire till Magellan, provoked by their repeated thefts, burned one of their villages. When they saw their wooden houses blazing, they first thought that the fire was a beast which fed upon the wood; and some of them who came too near, being burnt, the rest stood at a distance, lest they should be devoured or poisoned by the breathings of this terrible animal.

The inhabitants of the Ladrone islands are olive-coloured, but not of such a deep dye as those of the Philippine islands; their stature is good, and their limbs well proportioned. Though their food consists entirely of fish, fruits, and roots, yet they are so fat, that to strangers they appear swelled, but this does not render them less nimble and active. They often live to 100 years or more, yet retain the health and vigour of men of 50. The men go stark naked, but the women are covered. They are not ill-looking, and take great care of their beauty, though their ideas on that subject are very different from ours. They love black teeth and white hair. Hence one of their principal occupations is to keep their teeth black by the help of certain herbs, and to whiten their hair, sprinkling upon it a certain water for this purpose. The women have their hair very long; but the men generally shave it close, except a single lock on the crown of the head, after the manner of the Japanese. Their language much resembles that of the people called *Tagales* in the Philippine islands. It is agreeable to the ear, with a soft and easy pronunciation. One of its chief graces consists in the facility of transposing words, and even all the syllables of one word; and thus furnishing a variety of double meanings, with which these people are greatly delighted. Though plunged in the deepest ignorance,

Ladon,
Ladrone.

Ladron, ignorance, and destitute of every thing valued by the rest of mankind, no nation ever showed more presumption, or a greater conceit of themselves, than these islanders, looking on their own nation as the only wise, sensible, and polished one in the world, and beholding every other people with the greatest contempt. Though they are ignorant of the arts and sciences, yet, like every other nation, they have their fables which serve them for history, and some poems which they greatly admire. A poet is with them a character of the first eminence, and greatly respected.

We neither know at what time nor from what place the *Ladron* islands were first peopled. As Japan lies within six or seven days sail of them, some have been induced to believe, that the first inhabitants of the *Ladrones* came from Japan. But from their greater resemblance to the inhabitants of the Philippine islands than to the Japanese, it is more probable that they came from the former than the latter. Formerly most of the islands were inhabited; and about 90 years ago, the three principal islands, Guam, Tinian, and Rota, are said to have contained 50,000 people; but since that time, Tinian hath been entirely depopulated, and only 200 or 300 Indians left at Rota to cultivate rice for the island of Guam, which alone is inhabited by Europeans, and where the Spaniards have a governor and a garrison: here also the annual *Manilla* ship touches for refreshments in her passage from *Acapulco* to the Philippines. The island of Tinian afforded an asylum to Commodore Anson in 1742; and the masterly manner in which the author of that voyage paints the natural beauties of the country, hath given a degree of estimation not only to this island, but to all the rest, which they had not before. Commodore Byron, in 1765, continued nine weeks at Tinian, and anchored in the very spot where the *Centurion* lay; but gives a much less favourable account of this climate and country than the former navigator. The water, he says, is brackish, and full of worms; many of his men were seized with fevers, occasioned by the intense heat; the thermometer, which was kept on board the ship, generally stood at 86°, which is but 10 or 11 degrees less than the heat of the blood at the heart; and had the instrument been ashore, he imagines it would have stood much higher than it did. It was with the greatest difficulty that they could penetrate through the woods; and when they had fortunately killed a bull, and with prodigious labour dragged it through the forests to the beach, it stunk, and was full of fly-blows by the time it reached the shore. The poultry was ill-tasted; and within an hour after it was killed, the flesh became as green as grass, and swarmed with maggots. The wild hogs were very fierce; and so large, that a carcase frequently weighed 200 pounds. Cotton and indigo were found on the island. Captain Wallis continued here a month in 1767, but makes no such complaints.

LADY. This title is derived from two Saxon words, which signify *leaf-day*, which words have in time been contracted into the present appellation. It properly belongs only to the daughter of earls, and all of higher rank; but custom has made it a word of complaisance for the wives of knights and of all eminent women.

As to the original application of this expression, it

may be observed, that heretofore it was the fashion for those families, whom God had blessed with affluence, to live constantly at their mansion-houses in the country, and that once a-week, or oftener, the lady of the manor distributed to her poor neighbours, *with her own hands*, a certain quantity of bread; but the practice, which gave rise to this title is now as little known as the meaning of it; however, it may be from that hospitable custom, that to this day the ladies in this kingdom alone serve the meat at their own table.

LADY'S Bedstraw. See GALLIUM.

LADY'S Mantle. See ALCHEMILLA.

LADY'S Smock. See CARDAMINE.

LADY'S Slipper. See CYPRIPIEDUM.

LADY'S Traces. See OPHRYS.

LADY-Day, in law, the 25th of March, being the annunciation of the Holy Virgin. See ANNUNCIATION.

LÆLIUS (Caius), a Roman consul and great orator, surnamed the *Wife*, distinguished himself in Spain in the war against Viriathus the Spanish general. He is highly praised by Cicero, who gives an admirable description of the intimate friendship which subsisted between Lælius and Scipio Africanus the Younger. His eloquence, his modesty, and his abilities, acquired him a great reputation; and he is thought to have assisted Terence in his comedies. He died about 126 B. C.

LÆNA, in antiquity, was a gown worn by the Roman augurs, and peculiar to their office. In this gown they covered their heads when they made their observations on the flight of birds, &c. See AUGUR.

LAER. See BAMBOCCIO.

LÆSTRYGONES, the most ancient inhabitants of Sicily. Some suppose them to be the same as the people of Leontium, and to have been neighbours to the Cyclops. They fed on human flesh; and when Ulysses came on their coasts, they sunk his ships and devoured his companions. They were of a gigantic stature, according to Homer's description. A colony of them, as some suppose, passed over into Italy with *Lamus* at their head, where they built the town of *Formiæ*, whence the epithet of *Læstrygonia* is often used for that of *Formiana*.

LAET (John de), a writer in the 17th century, born at Antwerp, was director of the West India company. He acquired great skill in the languages, in history, and geography; and had the management of Elzevir's edition of *A Description of most Kingdoms in the World*, printed in Latin. He wrote in French, *A Description of the East Indies*, and other works; and died in 1649.

LAETIA, in botany: A genus of the monogynia order, belonging to the polyandria class of plants; and in the natural method ranking with those of which the order is doubtful. The corolla is pentapetalous, or none; the calyx is pentaphyllous; the fruit unilocular and trigonal; the seeds have a pulpy arillus or coat. There are two species, both natives of America. One of them, the *apetala*, or gum-wood, Dr Wright informs us, is very common in the woodlands and copses of Jamaica, where it rises to a considerable height and thickness. The trunks are smooth and white; the leaves are three inches long, a little serrated, and somewhat hairy. The stamina are yellow, without petals: the fruit is as large as a plum; and when ripe, opens.

Lady
||
Lactia.

Lævinus
||
Lagoon.

opens and shows a number of small seeds in a reddish pulp. Pieces of the trunk or branches, suspended in the heat of the sun, discharge a clear turpentine or balsam, which concretes into a white resin, and which seems to be the same as gum sandarach. Pounce is there made of it; and our author is of opinion, that it might be useful in medicine like other gums of the same nature.

LÆVINUS (Torrentinus), commonly called *Van-der Bekin*, or *Torrentin*, was a native of Ghent, and bred in the university of Louvain. He afterwards made the tour of Italy, where his virtues obtained him the friendship of the most illustrious personages of his time. On his return to the Low Countries; he was made canon of Leige, and vicar-general to Ernest de Baviere, bishop of that see. At length, having executed a successful embassy to Philip II. of Spain, he was rewarded with the bishopric of Antwerp; from whence he was translated to the metropolitan church of Mechlin, and died there in 1595. He founded a college of Jesuits at Louvain, to which he left his library, medals, and curiosities. He wrote several poems that procured him the character of being, after Horace, the prince of the lyric poets.

LÆVIUS, a Latin poet. It is not well known when he lived, but probably he was more ancient than Cicero. He made a poem intitled *Erotopagnia*, i. e. *love games*. Aulus Gellius quotes two lines of it. Apuleius also quotes six lines from the same poet; but he does not tell from what work he borrowed them. Lævius had also composed a poem intitled *The Centaurs*, which Festus quotes under the title of *Petrarum*.

LAGAN, or LAGON. See FLOTSOM.

LAGEMAN (*lagamannus*), *homo habens legem*, or *homo legalis seu legitimus*; such as we call now "good men of the jury." The word is frequently used in Domestick, and the laws of Edward the Confessor, cap. 38.

LAGEN (*lagena*), in ancient time, was a measure of wine, containing six sextarii: whence probably is derived our *flagon*. The lieutenant of the tower has the privilege to take *unam lagenam vini ante malum & retro*, of all wine ships that come upon the Thames; and Sir Peter Leicester, in his Antiquities of Cheshire, interprets *lagena vini*, "a bottle of wine."

LAGERSTROEMIA, in botany; a genus of the monogynia order, belonging to the polyandria class of plants. The corolla is hexapetalous, and curled; the calyx sexfid, and campanulated; there are many stamina, and of these the six exterior ones thicker than the rest, and longer than the petals.

LAGNY, a town of the isle of France, with a famous benedictine abbey. It is seated on the river Marne, in E. Long. 2. 45. N. Lat. 48. 50.

LAGOECIA, in botany; a genus of the monogynia order, belonging to the pentandria class of plants. The involucre is universal and partial; the petals bifid; the seeds solitary, inferior.

LAGOON ISLAND, one of the new discovered islands in the South Sea, lying in S. Lat. 18. 47. W. Long. 139. 28. It is of an oval form, with a lake in the middle, which occupies much the greatest part of it. The whole island is covered with trees of different growth. It is inhabited by a race of Indians, tall, of a copper colour, with long black hair. Their wea-

pons are poles or spikes, which are twice as long as themselves. Their habitations were seen under some clumps of palm-trees, which formed very beautiful groves. This island was discovered by Captain Cook in April 1769.

LAGOPUS, in ornithology. See TETRAO.

LAGOS, a sea-port town of Portugal, in the province of Algarva, with a castle near the sea, where there is a good harbour, and where the English fleets bound to the Straits usually take in fresh water. W. Long. 8. 5. N. Lat. 36. 45.

LAGUNA, or *San Christoval de Laguna*, a considerable town in the island of Teneriff, near a lake of the same name, on the declivity of a hill. It has very handsome buildings, and a fine square. W. Long. 16. 24. N. Lat. 28. 30.

LAGUNES OF VENICE, are marshes or lakes in Italy on which Venice is seated. They communicate with the sea, and are the security of the city. There are about 60 islands in these Lagunes, which together make a bishop's see. Eurano is the most considerable, next to those on which Venice stands.

LAGURUS, in botany: A genus of the digynia order, belonging to the triandria class of plants; and in the natural method ranking under the 4th order, *Gramina*. The calyx is bivalved, with a villous awn; the exterior petal of the corolla terminated by two awns, with a third on its back retorted.

LAHOLM, a sea-port town of Sweden, in the province of Gothland, and territory of Holland, seated near the Baltic Sea, with a castle and a harbour, in E. Long. 13. 13. N. Lat. 56. 35.

LAHOR, a large town of Asia, in Indostan, and capital of a province of the same name, and one of the most considerable in the Mogul's dominions. It is of a vast circumference, and contains a great number of mosques, public baths, caravanseras, and pagoda. It was the residence of the Great Mogul; but since the removal of the court, the fine palace is going to decay. There is a magnificent walk of shady trees, which runs from this to Agra, that is upwards of 300 miles. Here they have manufactures of cotton cloths and stuffs of all kinds, and they make very curious carpets. E. Long. 75. 55. N. Lat. 31. 40.

LAINÉZ (James), a Spaniard, companion of Ignatius of Loyola, second general of the Jesuits, and a man of a more daring and political character. Having procured from pope Paul IV. the perpetual generalship of the new order of Jesuits, after the death of Ignatius, he got the following privileges ratified by that pontiff, which show that he was in fact the founder of the worst part of their institution: 1. The right of making all sorts of contracts (without the privity of the community) vested in the generals and their delegates. 2. That of giving authenticity to all comments and explanations of their constitutions. 3. The power of making new, and altering the old: this opened the door to their bloody political tenets, not to be attributed to Loyola. 4. That of having prisons independent of the secular authority, in which they put to death refractory brethren. Lainéz died in 1565, aged 53.

LAIRESSÉ (Gerard), an eminent Flemish painter, born at Leige in 1640. He received the principal part of his instruction from his father Renier de Lairessé,

Lagopus
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Lairessé.

Lais.

Laireffe, though he is also accounted a disciple of Bartolet. He first settled at Utrecht, where he lived in distressed circumstances; but an accidental recommendation carrying him to Amsterdam, he soon exchanged want and obscurity for affluence and reputation. He was a perfect master of history; his designs are distinguished by the grandeur of the composition; and the back-grounds, wherever the subjects required it, are rich in architecture, which is an uncommon circumstance in that country. He had the unhappiness to lose his sight several years before his death, which happened in 1711; so that the treatise on design and colouring, which passes under his name, was not wrote by him, but collected from his observations after he was blind, and published after his death. He had three sons, two of whom were painters; and also three brothers, Ernest, James, and John: Ernest and John painted animals, and James was a flower-painter. He engraved a good deal in aquafortis: his works consist of 256 plates, above half of which were done with his own hand. He wrote an excellent book on the art, which has been translated into English, and printed at London both in 4to and 8vo.

LAIS, a celebrated courtesan, daughter of Timandra the mistress of Alcibiades, born at Hyccara in Sicily. She was carried away from her native Greece, when Nicias the Athenian general invaded Sicily. She first began to sell her favours at Corinth for 10,000 drams, and the immense number of princes, noblemen, philosophers, orators, and plebeians which courted her embraces, show how much commendation is owed to her personal charms. The expenses which attended her pleasures, gave rise to the proverb of *Non cuius homini contingit adire Corinthum*. Even Demosthenes himself visited Corinth for the sake of Lais; but when he was informed by the courtesan, that admittance to her bed was to be bought at the enormous sum of about 200 l. English money, the orator departed, and observed that he would not buy repentance at so dear a price. The charms which had attracted Demosthenes to Corinth, had no influence upon Xenocrates. When Lais saw the philosopher unmoved by her beauty, she visited his house herself; but there she had no reason to boast of the licentiousness or easy submission of Xenocrates. Diogenes the cynic was one of her warmest admirers, and though filthy in his dress and manners, yet he gained her heart and enjoyed her most unbounded favours. The sculptor Mycon also solicited the favours of Lais, but he met with coldness: he, however, attributed the cause of his ill reception to the whiteness of his hair, and dyed it of a brown colour, but to no purpose: "Fool that thou art (said the courtesan) to ask what I refused yesterday to thy father." Lais ridiculed the austerity of philosophers, and laughed at the weakness of those who pretend to have gained a superiority over their passions, by observing, that the sages and philosophers of the age were not above the rest of mankind, for she found them at her door as often as the rest of the Athenians. The success which her debaucheries met at Corinth encouraged Lais to pass into Thessaly, and more particularly to enjoy the company of a favourite youth called Hippostratus. She was however disappointed: the women of the place, jealous of her charms, and apprehensive of her corrupting the fidelity of their husbands, assassinated her in the temple of Venus, about 340 years before the Christian era. Some suppose that there were two persons of this name, a mother and her daughter.

LAITY, the people as distinguished from the clergy; (see CLERGY). The lay part of his majesty's subjects is divided into three distinct states; the civil, the military, and the maritime. See CIVIL, MILITARY, MARITIME.

LAKE, a collection of waters contained in some cavity in an inland place, of a large extent, surrounded with land, and having no communication with the ocean. Lakes may be divided into four kinds. 1. Such as neither receive nor send forth rivers. 2. Such as emit rivers, without receiving any. 3. Such as receive rivers, without emitting any. And, 4. Such as both receive and send forth rivers. Of the first kind, some are temporary and others perennial. Most of those that are temporary owe their origin to the rain, and the cavity or depression of the place in which they are lodged: thus in India there are several such lakes made by the industry of the natives, of which some are a mile, and some two, in circuit; these are surrounded with a stone-wall, and being filled in the rainy months, supply the inhabitants in dry seasons, who live at a great distance from springs or rivers. There are also several of this kind formed by the inundations of the Nile and the Niger; and in Muscovy, Finland, and Lapland, there are many lakes formed, partly by the rains, and partly by the melting of the ice and snow: but most of the perennial lakes, which neither receive nor emit rivers, probably owe their rise to springs at the bottom, by which they are constantly supplied. The second kind of lakes, which emit without receiving rivers, is very numerous. Many rivers flow from these as out of cisterns; where their springs being situated low within a hollow place, first fill the cavity and make it a lake, which not being capacious enough to hold all the water, it overflows and forms a river: of this kind is the Wolga, at the head of the river Wolga; the lake Odium, at the head of the Tanais; the Adac, from whence one branch of the river Tigris flows; the Ozero, or White lake, in Muscovy, is the source of the river Shaksna. The great lake Chaamay, which emits four very large rivers, which water the countries of Siam, Pegu, &c. viz. the Menan, the Afa, the Caipoumo, and the Laquia, &c. The third species of lakes, which receive rivers but emit none, apparently owe their origin to those rivers which, in their progress from their source, falling into some extensive cavity, are collected together, and form a lake of such dimensions as may lose as much by exhalation as it continually receives from these sources: of this kind is that great lake improperly called the *Caspian Sea*; the lake Asphaltites, also called the *Dead Sea*; the lake of Geneva, and several others. Of the fourth species, which both receive and emit rivers, we reckon three kinds, as the quantity they emit is greater, equal or less, than they receive. If it be greater, it is plain that they must be supplied by springs at the bottom; if less, the surplus of the water is probably spent in exhalations; and if it be equal, their springs just supply what is evaporated by the sun.

Lakes are also divided into those of fresh water and those

Laity,
Lake.

Lake.

those of salt. Dr Halley is of opinion, that all great perennial lakes are saline, either in a greater or less degree; and that this saltiness increases with time: and on this foundation he proposes a method for determining the age of the world.

Large lakes answer the most valuable purposes in the northern regions, the warm vapours that arise from them moderating the pinching cold of those climates; and what is still a greater advantage, when they are placed in warmer climates at a great distance from the sea, the exhalations raised from them by the sun cause the countries that border upon them to be refreshed with frequent showers, and consequently prevent their being barren deserts.

LAKE, or *Laque*, a preparation of different substances into a kind of magistery for the use of painters. One of the finest and first invented of which was that of *gum-lacca* or *lacque*; from which all the rest, as made by the same process, are called by the common name *lacques*. See LACCA.

The method of preparing these, in general, may be known by the example of that of the curcuma-root of the shops, called *turmeric root*; the process for the making of which is this: Take a pound of turmeric-root in fine powder, three pints of water, and an ounce of salt of tartar; put all into a glazed earthen vessel, and let them boil together over a clear gentle fire, till the water appears highly impregnated with the root, and will stain a paper to a beautiful yellow. Filtre this liquor, and gradually add to it a strong solution of roch alum in water, till the yellow matter is all curdled together and precipitated; after this pour the whole into a filtre of paper, and the water will run off and leave the yellow matter behind. It is to be washed many times with fresh water, till the water comes off insipid, and then is obtained the beautiful yellow called *lacque of turmeric*, and used in painting.

In this manner may a lake be made of any of the tinging substances that are of a somewhat strong texture, as madder, logwood, &c. but it will not succeed in the more tender species, as the flowers of roses, violets, &c. as it destroys the nice arrangement of parts in those subjects on which the colour depends.

A yellow lake for painting is to be made from broom-flowers in the following manner: Make a ley of pot-ashes and lime reasonably strong; in this boil, at a gentle fire, fresh bloom-flowers till they are white, the ley having extracted all their colour; then take out the flowers, and put the ley to boil in earthen vessels over the fire; add as much alum as the liquor will dissolve; then empty this ley into a vessel of clean water, and it will give a yellow colour at the bottom. Let all settle, and decant off the clear liquor. Wash this powder, which is found at the bottom, with more water, till all the salts of the ley are washed off; then separate the yellow matter, and dry it in the shade. It proves a very valuable yellow.

Lake is at present seldom prepared from any other substance than scarlet rags, cochineal, and Brazil wood. The best of what is commonly sold is made from the colour extracted from scarlet rags, and deposited on the cuttle-bone; and this may be prepared in the following manner: Dissolve a pound of the best pearl-

ashes in two quarts of water, and filtre the liquor thro' paper; add to this solution two more quarts of water and a pound of clean scarlet shreds, and boil them in a pewter boiler till the shreds have lost their scarlet colour; take out the shreds and press them, and put the coloured water yielded by them to the other: in the same solution boil another pound of the shreds, proceeding in the same manner; and likewise a third and fourth pound. Whilst this is doing, dissolve a pound and a half of cuttle-fish bone in a pound of strong aquafortis in a glass receiver; adding more of the bone if it appear to produce any ebullition in the aquafortis; and pour this strained solution gradually into the other; but if any ebullition be occasioned, more of the cuttle-fish bone must be dissolved as before, and added till no ebullition appears in the mixture. The crimson sediment deposited by the liquor thus prepared is the lake: pour off the water; and stir the lake in two gallons of hard spring water, and mix the sediment in two gallons of fresh water; let this method be repeated four or five times. If no hard water can be procured, or the lake appears too purple, half an ounce of alum should be added to each quantity of water before it be used. Having thus sufficiently freed the lake from the salts, drain off the water through a filtre, covered with a worn linen cloth. When it has been drained to a proper dryness, let it be dropped through a proper funnel on clean boards, and the drops will become small cones or pyramids, in which form the lake must be suffered to dry, and the preparation is completed.

Lake may be prepared from cochineal, by gently boiling two ounces of cochineal in a quart of water; filtering the solution through paper, and adding two ounces of pearl-ashes dissolved in half a pint of warm water and filtered through paper. Make a solution of cuttle-bone as in the former process; and to a pint of it add two ounces of alum dissolved in half a pint of water. Put this mixture gradually to that of the cochineal and pearl-ashes, as long as any ebullition appears to arise, and proceed as above.—A beautiful lake may be prepared from Brazil wood, by boiling three pounds of it for an hour in a solution of three pounds of common salt in three gallons of water, and filtering the hot fluid through paper; add to this a solution of five pounds of alum in three gallons of water. Dissolve three pounds of the best pearl-ashes in a gallon and a half of water, and purify it by filtering; put this gradually to the other, till the whole of the colour appear to be precipitated, and the fluid be left clear and colourless. But if any appearance of purple be seen, add a fresh quantity of the solution of alum by degrees, till a scarlet hue be produced. Then pursue the directions given in the first process with regard to the sediment. If half a pound of seed lac be added to the solution of pearl-ashes, and dissolved in it before its purification by the filtre, and two pounds of the wood, and a proportional quantity of the common salt and water be used in the coloured solution, a lake will be produced that will stand well in oil or water, but is not so transparent in oil as without the seed-lac. The lake with Brazil wood may be also made by adding half an ounce of anotto to each pound of the wood; but the anotto must be dissolved in the solution of pearl-

Lake.

Lake,
Lama.

pearl-ashes. There is a kind of beautiful lake brought from China; but as it does not mix well with either water or oil, though it dissolves entirely in spirit of wine, it is not of any use in our kinds of painting. This has been erroneously called *safflower*.

Orange LAKE, is the tinging part of anotto precipitated together with the earth of alum. This pigment, which is of a bright orange colour and fit for varnish painting, where there is no fear of flying, and also for putting under crystal to imitate the vinegar garnet, may be prepared by boiling four ounces of the best anotto and one pound of pearl-ashes half an hour in a gallon of water; and straining the solution through paper. Mix gradually with this a solution of a pound and a half of alum in another gallon of water; desisting when no ebullition attends the commixture. Treat the sediment in the manner already directed for other kinds of lake, and dry it in square bits or round lozenges.

LAMA, a synonyme of the *camelus pacos*. See CAMELUS.

LAMA, the sovereign pontiff, or rather god, of the Asiatic Tartars, inhabiting the country of Barantola. The lama is not only adored by the inhabitants of the country, but also by the kings of Tartary, who send him rich presents, and go in pilgrimage to pay him adoration, calling him *lama congiu*, i. e. "god, the everlasting father of heaven." He is never to be seen but in a secret place of his palace, amidst a great number of lamps, sitting cross-legged upon a cushion, and adorned all over with gold and precious stones; where at a distance they prostrate themselves before him, it not being lawful for any to kiss even his feet. He is called the *great lama*, or *lama of lamas*; that is, "priest of priests." The orthodox opinion is, that when the grand lama seems to die either of old age or infirmity, his soul in fact only quits a crazy habitation to look for another younger or better; and it is discovered again in the body of some child, by certain tokens known only to the lamas or priests, in which order he always appears.

The following account of the ceremonies attending the inauguration of the infant lama in Thibet is extracted from the first volume of the *Asiatic Researches*.

The emperor of China appears on this occasion to have assumed a very conspicuous part in giving testimony of his respect and zeal for the great religious father of his faith. Early in the year 1784, he dismissed ambassadors from the court of Peking to Teeshoo Loomboo, to represent their sovereign in supporting the dignity of the high priest, and do honour to the occasion of the assumption of his office. Dalia Lama and the viceroy of Lassa, accompanied by all the court, one of the Chinese generals stationed at Lassa with a part of the troops under his command, two of the four magistrates of the city, the heads of every monastery throughout Thibet, and the emperor's ambassadors, appeared at Teeshoo Loomboo, to celebrate this epocha in their theological institutions. The 28th day of the seventh moon, corresponding nearly, as their year commences with the vernal equinox, to the middle of October 1784, was chosen as the most auspicious for the ceremony of inauguration: a few days previous to which the lama was conducted from Terpalang, the monastery in which he had passed his infancy, with every

mark of pomp and homage that could be paid by an enthusiastic people. So great a concourse as assembled either from curiosity or devotion was never seen before, for not a person of any condition in Thibet was absent who could join the suite. The procession was hence necessarily constrained to move so slow, that though Terpalang is situated at the distance of 20 miles only from Teeshoo Loomboo, three days expired in the performance of this short march. The first halt was made at Tsondue; the second at Summaar, about six miles off, whence the most splendid parade was reserved for the lama's entry on the third day, the account of which is given by a person who was present in the procession. The road, he says, was previously prepared by being whitened with a wash, and having piles of stones heaped up with small intervals between on either side. The retinue passed between a double row of priests who formed a street extending all the way from Summaar to the gates of the palace. Some of the priests held lighted rods of a perfumed composition that burn like decayed wood, and emit an aromatic smoke; the rest were furnished with the different musical instruments they use at their devotions, such as the gong, the cymbal, hautboy, trumpets, drums, and sea-shells, which were all sounded in union with the hymn they chanted. The crowd of spectators were kept without the street, and none admitted on the high road but such as properly belonged to or had a prescribed place in the procession, which was arranged in the following order.

The van was led by three military commandants or governors of districts at the head of 6000 or 7000 horsemen armed with quivers, bows, and matchlocks. In their rear followed the ambassador with his suite, carrying his diploma as is the custom of China, made up in the form of a large tube, and fastened on his back. Next the Chinese general advanced with the troops under his command, mounted and accoutered after their way with fire-arms and sabres; then came a very numerous group bearing the various standards and insignia of state; next to them moved a full band of wind and other sonorous instruments; after which were led two horses richly caparisoned, each carrying two large circular stoves disposed like panniers across the horse's back and filled with burning aromatic woods. These were followed by a senior priest, called a *lama*, who bore a box containing books of their form of prayer and some favourite idols. Next nine sumptuary horses were led loaded with the lama's apparel; after which came the priests immediately attached to the lama's person for the performance of daily offices in the temple, amounting to about 700; following them were two men each carrying on his shoulder a large cylindrical gold insignium embossed with emblematical figures (a gift from the emperor of China). The Duhunners and Soopoons, who were employed in communicating addresses and distributing alms, immediately preceded the lama's bier, which was covered with a gaudy canopy, and borne by eight of the 16 Chinese appointed for this service. On one side of the bier attended the regent, on the other the lama's father. It was followed by the heads of the different monasteries, and as the procession advanced, the priests who formed the street fell in the rear and brought up the suit, which moved at an extremely slow pace, and about

Lama.

Lama,
Lamb.

noon was received with in the confines of the monastery, amidst an amazing display of colours, the acclamations of the-crowd, solemn music, and the chanting of their priests.

The lama being safely lodged in the palace, the regent and Soopoon Choomboo went out, as is a customary compliment paid to visitors of high rank on their near approach, to meet and conduct Dalai Lama and the viceroy of Lassa who were on the way to Teeshoo Loomboo. Their retinues encountered the following morning at the foot of Painom castle, and the next day together entered the monastery of Teeshoo Loomboo, in which both Dalai Lama and the viceroy were accommodated during their stay.

The following morning, which was the third after Teeshoo Lama's arrival, he was carried to the great temple, and about noon seated upon the throne of his progenitors; at which time the emperor's ambassador delivered his diploma, and placed the presents with which he had been charged at the lama's feet.

The three next ensuing days, Dalai Lama met Teeshoo Lama in the temple, where they were assisted by all the priests in the invocation and public worship of their gods. The rites then performed, completed, as we understand, the business of inauguration. During this interval all who were at the capital were entertained at the public expence, and alms were distributed without reserve. In conformity likewise to previous notice circulated every where for the same space of time, universal rejoicings prevailed throughout Thibet. Banners were unfurled on all their fortresses, the peasantry filled up the day with music and festivity, and the night was celebrated by general illuminations. A long period was afterwards employed in making presents and public entertainments to the newly inducted lama, who, at the time of his accession to the Musnud, or if we may use the term, pontificate of Teeshoo Loomboo, was not three years of age. The ceremony was begun by Dalai Lama, whose offerings are said to have amounted to a greater value, and his public entertainments to have been more splendid than the rest. The second day was dedicated to the viceroy of Lassa. The third to the Chinese general. Then followed the *culloong* or magistrates of Lassa, and the rest of the principal persons who had accompanied Dalai Lama. After which the regent of Teeshoo Loomboo, and all that were dependent on that government, were severally admitted, according to pre-eminence of rank, to pay their tributes of obeisance and respect. As soon as the acknowledgements of all those were received who were admissible to the privilege, Teeshoo Lama made in the same order suitable returns to each, and the consummation lasted 40 days.

Many importunities were used with Dalai Lama to prolong his stay at Teeshoo Loomboo; but he excused himself from encumbering the capital any longer with so numerous a concourse of people as attended on his movements, and deeming it expedient to make his absence as short as possible from the seat of his authority, at the expiration of 40 days he withdrew with all his suite to Lassa, and the emperor's ambassador received his dismissal to return to China, and thus terminated this famous festival.

LAMB, in zoology, the young of the sheep kind. See Ovis.

A male lamb of the first year is called a *wedder-hog*, and the female a *ewe-hog*; the second year it is called a *wedder*, and the female a *sheave*. If a lamb be sick, mare's milk with water may be given it; and by blowing into the mouth, many have been recovered, after appearing dead. The best season for weaning them is when they are 16 or 18 weeks old; and about Michaelmas the males should be separated from the females, and such males as are not designed for rams, gelded. "Lamb (says Dr Cullen) appears a more fibrous kind of meat, and upon that account is less easily soluble than veal. In Scotland, house-lamb is never reared to advantage."

Scythian LAMB, a kind of moss, which grows about the roots of fern in some of the northern parts of Europe and Asia, and sometimes assumes the form of a quadruped; so called from a supposed resemblance in shape to that animal. It has something like four feet, and its body is covered with a kind of down. Travellers report that it will suffer no vegetable to grow within a certain distance of its seat. Sir Hans Sloan read a memoir upon this plant before the Society; for which those who think it worth while may consult their Transactions, N^o 245. p. 461. Mr Bell, in his "Account of a Journey from St Petersburg to Ispahan," informs us that he searched in vain for this plant in the neighbourhood of Astrachan, when at the same time the more sensible and experienced amongst the Tartars treated the whole history as fabulous. See Plate CCLIX.

LAMBECIUS (Peter), born at Hamburg in 1628, was one of the most learned men of his time. He went very young to study in foreign countries, at the expence of his uncle the learned Holstenius. He was chosen professor of history at Hamburg in 1652, and rector of the college of that city in 1660. He had taken his degree of doctor of law in France before. He suffered a thousand vexations in his own country; because his enemies charged him with atheism, and censured his writings bitterly. He married a rich lady, but who was so very covetous, that he left her in disgust within a fortnight. He went to Vienna, and from thence to Rome, where he publicly professed the Catholic religion. He returned to Vienna in 1662, where he was kindly received by the emperor, who appointed him his sublibrary-keeper, and afterwards his principal librarian, with the title of *counsellor and historiographer*; in which employment he continued till his death, and gained a great reputation by the works he published, viz. 1. *An Essay on Aulus Gellius*. 2. *The Antiquities of Hamburg*. 3. *Remarks on Codinus's Antiquities of Constantinople*, &c.

LAMBERT of Aschaffenburg, a Benedictine-monk, in the 11th century, wrote several works; among which is a history of Germany, from the year 1050 to 1077, which is esteemed.

LAMBERT (John), general of the parliament's forces in the civil wars of the last century, was of a good family, and for some time studied the law in one of the inns of court; but upon the breaking out of the rebellion, went into the parliament-army, where he soon rose to the rank of colonel, and by his conduct and valour performed many eminent services. But when Cromwell seemed inclined to assume the title of king, Lambert opposed it with great vigour, and even refused to take the oath required by the assembly and council.

Lamb
||
Lamberts

Lambert,
Lambin.

council to be faithful to the government; on which Cromwell deprived him of his commission, but granted him a pension of 2000 l. a-year. This was an act of prudence rather than of generosity; as he well knew, that such genius as Lambert's, rendered desperate by poverty, was capable of attempting any thing.

Lambert being now divested of all employment, retired to Wimbleton-house; where turning florist, he had the finest tulips and gilliflowers that could be got for love or money. Yet amidst these amusements he still nourished his ambition: for when Richard Cromwell succeeded his father, he acted so effectually with Fleetwood, Desborough, Vane, Berry, and others, that the new protector was obliged to surrender his authority; and the members of the long-parliament, who had continued sitting till the 20th of April 1653, when Oliver dismissed them, were restored to their seats, and Lambert was immediately appointed one of the council of state, and colonel of a regiment of horse and another of foot. For this service the parliament presented him 1000 l. to buy a jewel; but he distributed it among his officers. This being soon known to the parliament, they concluded that he intended to secure a party in the army. They therefore courteously invited him to come to London; but resolved, as soon as he should arrive, to secure him from doing any further harm. Lambert, apprehensive of this, delayed his return, and even refused to resign his commission when it was demanded of him and of eight of the other leading officers; and, marching up to London with his army, dislodged the parliament by force in October 1659. He was then appointed, by a council of the officers, major-general of the army, and one of the new council for the management of public affairs, and sent to command the forces in the north. But general Monk marching from Scotland into England to support the parliament, against which Lambert had acted with such violence, the latter, being deserted by his army, was obliged to submit to the parliament, and by their order was committed prisoner to the tower; whence escaping he soon appeared in arms with four troops under his command, but was defeated and taken prisoner by colonel Ingoldesby.

At the Restoration he was particularly excepted out of the act of indemnity. Being brought to his trial on the 4th of June 1662, for levying war against the king, this daring general behaved with more submission than the meanest of his fellow-prisoners, and was by his majesty's favour reprimanded at the bar, and confined during his life in the island of Guernsey.

LAMBERT (Anna Theresa de Marguenat de Courcelles, marchioness of), an elegant moral writer, was the only daughter of Stephen Marguenat lord of Courcelles. In 1666 she married Henry de Lambert, who at his death was lieutenant-general of the army; and she afterwards remained a widow with a son and a daughter, whom she educated with great care. Her house was a kind of academy, to which persons of distinguished abilities regularly resorted. She died at Paris in 1733, aged 86. Her works, which are written with much taste, judgment, and delicacy, are printed in two volumes. The advice of a mother to her son and daughter are particularly esteemed.

LAMBIN (Dennis), an eminent classical commentator, was born at Montreuil-sur-Mer, in Picardy,

and acquired great skill in polite literature. He lived for a long time at Rome; and at his return to Paris was made royal professor of the Greek language. He died in 1572, aged 56, of pure grief at the death of his friend Ramus, who was murdered at the massacre on St Bartholomew's day. He wrote commentaries on Plautus, Lucretius, Cicero, and Horace, and other works. His commentary on Horace is more particularly esteemed.

LAMECH, of the race of Cain, was the son of Methusael, and father of Jabal, Jubal, Tubal-cain, and Naamah. Gen. iv. 18, 19, 20, &c. Lamech is celebrated in scripture for his polygamy, whereof he is thought to be the first author in the world. He married Adah and Zillah. Adah was the mother of Jabal and Jubal; and Zillah of Tubal-cain, and Naamah his sister. One day Lamech said to his wives, "Hear me, ye wives of Lamech; I have slain a man to my wounding, and a young man to my hurt. If Cain shall be avenged seven fold, truly Lamech seventy and seven fold." These words are an unintelligible riddle. The reader may consult the commentators. There is a tradition among the Hebrews, that Lamech growing blind, ignorantly killed Cain, believing him to be some wild beast; and that afterwards he slew his own son Tubal-cain, who had been the cause of this murder, because he had directed him to shoot at a certain place in the thickets where he had seen something stir. See CAIN.

Several other suppositions are produced in order to explain this passage concerning Lamech, and all almost equally uncertain and absurd.

LAMECH, the son of Methuselah, and father of Noah. He lived a hundred fourscore and two years before the birth of Noah, (Gen. v. 25, 31.); and after that, he lived five hundred and ninety-five years longer: thus the whole time of his life was seven hundred seventy-seven years, being born in the year of the world 874, and dying in the year of the world 1651.

LAMELLÆ, in natural history, denotes very thin plates, such as the scales of fishes are composed of.

LAMENTATIONS, a canonical book of the Old Testament, written by the prophet Jeremiah, according to archbishop Usher and some other learned men, who follow the opinion of Josephus and St Jerom, on occasion of Josiah's death. But this opinion does not seem to agree with the subject of the book, the lamentation composed by Jeremiah on that occasion being probably lost. The fifty-second chapter of the book of Jeremiah was probably added by Ezra, as a preface or introduction to the Lamentations: the two first chapters are employed in describing the calamities of the siege of Jerusalem: in the third the author deplores the persecutions he himself had suffered: the fourth treats of the desolation of the city and temple, and the misfortune of Zedekiah: the fifth chapter is a prayer for the Jews in their dispersion and captivity: and at the close of all he speaks of the cruelty of the Edomites, who had insulted Jerusalem in her misery. All the chapters of this book, except the last, are in metre, and digested in the order of the alphabet; with this difference, that in the first, second, and fourth chapters, the first letter of every verse follows the order of the alphabet; but in the third the same initial letter is continued for three verses together,

Lamech
||
Lamentations.

Lamia
||
Lamium.

ther. This order was probably adopted, that the book might be more easily learnt and retained. The subject of this book is of the most moving kind; and the style throughout lively, pathetic, and affecting. In this kind of writing the prophet Jeremiah was a great master, according to the character which Grotius gives of him, *Mirus in affectibus concitandis*.

LAMIA (anc. geog.) a town of the Phthiotis, a district of Thessaly. Famous for giving name to the *Bellum Lamiacum*, waged by the Greeks on the Macedonians after Alexander's death.

LAMIACUM BELLUM happened after the death of Alexander, when the Greeks, and particularly the Athenians, incited by their orators, resolved to free Greece from the garrisons of the Macedonians. Leosthenes was appointed commander of a numerous force, and marched against Antipater, who then presided over Macedonia. Antipater entered Thessaly at the head of 13,000 foot and 600 horse, and was beaten by the superior force of the Athenians and of their Greek confederates. Antipater after this blow fled to Lamia, where he resolved, with all the courage and sagacity of a careful general, to maintain a siege with about 8000 or 9000 men that had escaped from the field of battle. Leosthenes, unable to take the city by storm, began to make a regular siege. His operations were delayed by the frequent sallies of Antipater; and Leosthenes being killed by the blow of a stone which he received, Antipater made his escape out of Lamia, and soon after, with the assistance of the army of Craterus brought from Asia, he gave the Athenians battle near Cranon; and though only 500 of their men were slain, yet they became so dispirited, that they sued for peace from the conqueror. Antipater at last with difficulty consented, provided they raised taxes in the usual manner, received a Macedonian garrison, defrayed the expenses of the war, and, lastly, delivered into his hands Demosthenes and Hyperides, the two orators whose prevailing eloquence had excited their countrymen against him. These disadvantageous terms were accepted by the Athenians, yet Demosthenes had time to escape and poison himself. Hyperides was carried before Antipater, who ordered his tongue to be cut off, and afterwards to be put to death.

LAMIÆ, a sort of demons who had their existence in the imaginations of the heathens, and were supposed to devour children. Their form was human, resembling beautiful women. Horace makes mention of them in his Art of Poetry. The name, according to some, is derived from *lanio* "to tear;" or according to others, is a corruption of a Hebrew word signifying to devour. They are also called *Larvæ* or *Lemures*.

LAMINÆ, in physiology, thin plates, or tables, whereof any thing consists; particularly the human skull, which are two, the one laid over the other.

LAMINIUM, (anc. geog.), a town of the Carpetani in the Hither Spain; at the distance of seven miles from the head of the Anas or Guadiana: Now *Montiel*, a citadel of New Castile; and the territory called *Ager Laminitanus*, is now *el Campo de Montiel*, (Clusius.)

LAMIUM, *Dead-Nettle*, in botany: A genus of the gymnospermia order, belonging to the didynamia class of plants; and in the natural method ranking

under the 42d order, *Verticillatæ*. The upper lip of the corolla is entire, arched, the under lip bilobous; the throat with a dent or tooth on each side the margin. There are eight species; of which only two, viz. the album, white archangel or dead-nettle, and the purpureum or red archangel, deserve notice. The first grows frequently under hedges and in waste places; the second is very common in gardens and corn-fields. The flowers of the first, which appear in April and May, have been particularly celebrated in uterine fluors and other female weaknesses, and also in disorders of the lungs; but they appear to be of very weak virtue; and they are at present so little used in Britain as to have now no place in our pharmacopœias. The young leaves of both species are boiled and eaten in some places like greens.

LAMMAS-DAY, the first of August; so called, as some will have it, because lambs then grow out of season, as being too big. Others derive it from a Saxon word, signifying "loaf-mass," because on that day our forefathers made an offering of bread made with new wheat.

On this day the tenants who formerly held lands of the cathedral church in York, were bound by their tenure to bring a lamb alive into the church at high-mass.

LAMOIGNON (Chretien Francis de) marquis of Baille, and president of the parliament of Paris, was born in 1644. His father would not trust the education of his son to another, but took it upon himself, and entered into the minutest particulars of his first studies: the love of letters and a solid taste were the fruits the scholar reaped from this valuable education. He learned rhetoric in the Jesuit's college, made the tour of England and Holland, and returned home the admiration of those meetings regularly held by persons of the first merit at his father's house. The several branches of literature were however only his amusement: the law was his real employ; and the eloquence of the bar at Paris owes its reformation from bombast and affected erudition to the plain and noble pleadings of M. Lamoignon. He was appointed the king's advocate general in 1673; which he discharged until 1698, when the presidentship of the parliament was conferred on him. This post he held nine years, when he was allowed to resign in favour of his eldest son: he was chosen president of the royal academy of inscriptions in 1705. The only work he suffered to see the light was his *Pleader*, which is a monument of his eloquence and inclination to polite letters. He died in 1709.

LAMP, a vessel containing oil, with a lighted wick.

Lamps were in general use amongst the Jews, Greeks, and Romans. The candlestick with seven branches, placed in the sanctuary by Moses, and those which Solomon afterwards prepared for the temple, were crystal lamps filled with oil, and fixed upon the branches. The lamps or candlesticks made use of by the Jews in their own houses were generally put into a very high stand on the ground. The lamps supposed to be used by the foolish virgins, &c. in the gospel, were of a different kind.—According to critics and antiquaries, they were a sort of torches, made of iron on potter's earth, wrapped about with old linen, and moistened from time to time with oil. Matth. xxv.

Lammas
||
Lamp.

Lamp.

1, 2. The lamps of Gideon's soldiers were of the same kind. The use of wax was not unknown to the Romans, but they generally burnt lamps; hence the proverb *Tempus et oleum perdidit*, "I have lost my labour." Lamps were sometimes burnt in honour of the dead, both by Greeks and Romans.

Dr St Clair, in the *Philos. Transf.* n° 245, gives the description of an improvement on the common lamp. He proposes that it should be made two or three inches deep, with a pipe coming from the bottom almost as high as the top of the vessel. Let it be filled so high with water that it may cover the hole of the pipe at the bottom, that the oil may not get in at the pipe and so be lost. Then let the oil be poured in so as to fill the vessel almost brim-full; and to the vessel must be adapted a cover having as many holes as there are to be wicks. When the vessel is filled and the wicks lighted, if water falls in by drops at the pipe, it will always keep the oil at the same height or very near it; the weight of the water being to that of the oil as $20\frac{8}{11}$ to 19, which in two or three inches makes no great difference. If the water runs faster than the oil wastes, it will only run over at the top of the pipe, and what does not run over will come under the oil, and keep it at the same height.

From experiments made in order to ascertain the expence of burning chamber oil in lamps, it appears, that a taper lamp, with eight threads of cotton in the wick, consumes in one hour $\frac{325}{1000}$ oz. of spermaceti oil, at 2s. 6d. per gallon; so that the expence of burning 12 hours is 4.57 farthings. This lamp gives as good a light as the candles of eight and ten in the pound; it seldom wants snuffing, and casts a strong and steady light. A taper, chamber, or watch lamp, with four ordinary threads of cotton in the wick, consumes 0.1664 oz. of spermaceti oil in one hour; the oil at 2s. 6d. per gallon, makes the expence of burning 12 hours only 2.34 farthings.

Perpetual LAMPS. The testimonies of Pliny, St Austin, and others, have led many to believe that the ancients had the invention of perpetual lamps; and some moderns have attempted to find out the secret, but hitherto in vain. Indeed it seems no easy matter to find out either a perpetual wick or a perpetual oil. The curious may read Dr Plot's conjectures on the subject in the *Philos. Transf.* n° 166; or in Lowthorp's abridgment, vol. iii. p. 636. But few, we believe, will give themselves the trouble of searching for the secret, when they consider that the credulity of Pliny and of St Austin was such, that their testimony does not seem a sufficient inducement to us to believe that a lamp was ever formed to burn 1500 or 1000 years: much less is it credible that the ancients had the secret of making one burn for ever.

Rolling LAMP: A machine A B, with two moveable circles D E, F G, within it; whose common centre of motion and gravity is at K, where their axes of motion cross one another. If the lamp K C, made pretty heavy and moveable about its axis H I, and whose centre of gravity is at C, be fitted within the inner circle, the common centre of gravity of the whole machine will fall between K and C; and by reason of the pivots A, B, D, E, H, I, will be always at liberty to descend: hence, though the whole machine be rolled a-

long the ground, or moved in any manner, the flame will always be uppermost, and the oil cannot spill.

It is in this manner they hang the compass at sea; and thus should all the moon-lanterns be made, that are carried before coaches, chaises, and the like.

Argand's LAMP. This is a very ingenious contrivance, and the greatest improvement in lamps that has yet been made. It is the invention of a citizen of Geneva; and the principle on which the superiority of the lamp depends, is the admission of a larger quantity of air to the flame than can be done in the common way. This is accomplished by making the wick of a circular form; by which means a current of air rushes through the cylinder on which it is placed with great force; and, along with that which has access to the outside, excites the flame to such a degree that the smoke is entirely consumed. Thus both the light and heat are prodigiously increased, at the same time that there is a very considerable saving in the expence of oil, the consumption of the phlogiston being exceedingly augmented by the quantity of air admitted to the flame; so that what in common lamps is dissipated in smoke is here converted into a brilliant flame.

This lamp is now very much in use; and is applied not only to the ordinary purposes of illumination, but also to that of a lamp furnace for chemical operations, in which it is found to exceed every other contrivance yet invented. It consists of two parts, viz. a reservoir for the oil, and the lamp itself. The reservoir is usually in the form of a vase, and has the lamp proceeding from its side. The latter consists of an upright metallic tube about one inch and six-tenths in diameter, three inches in length, and open at both ends. Within this is another tube about an inch in diameter, and nearly of an equal length; the space betwixt the two being left clear for the passage of the air. The internal tube is closed at the bottom, and contains another similar tube about half an inch in diameter, which is soldered to the bottom of the second. It is perforated throughout, so as to admit a current of air to pass through it; and the oil is contained in the space betwixt the tube and that which surrounds it. A particular kind of cotton cloth is used for the wick, the longitudinal threads of which are much thicker than the others, and which nearly fills the space into which the oil flows; and the mechanism of the lamp is such, that the wick may be raised or depressed at pleasure. When the lamp is lighted, the flame is in the form of a hollow cylinder; and by reason of the strong influx of air through the heated metallic tube, becomes extremely bright, the smoke being entirely consumed for the reasons already mentioned. The heat and light are still farther increased, by putting over the whole a glass cylinder nearly of the size of the exterior tube. By diminishing the central aperture, the heat and light are proportionably diminished, and the lamp begins to smoke. The access of air both to the external and internal surfaces of the flame is indeed so very necessary, that a sensible difference is perceived when the hand is held even at the distance of an inch below the lower aperture of the cylinder; and there is also a certain length of wick at which the effect of the lamp is strongest. If the wick be very short, the flame, though white and brilliant, emits a disagreeable and pale kind

Lamp.

Lamp. of light; and if very long, the upper part becomes brown, and smoke is emitted.

The saving of expence in the use of this instrument for common purposes is very considerable. By some experiments it appears that the lamp will continue to burn three hours for the value of one penny; and the following was the result of the comparison between the light emitted by it and that of a candle. The latter having been suffered to burn so long without snuffing, that large lumps of coally matter were formed upon the wick, gave a light at 24 inches distance equal to the lamp at 129 inches; whence it appeared that the light of the lamp was equal to 28 candles in this state. On snuffing the candle, however, its light was so much augmented, that it became necessary to remove it to the distance of 67 inches before its light became equal to that of the lamp at 129 inches; whence it was concluded that the light of the lamp was somewhat less than that of four candles fresh snuffed. At another trial, in which the lamp was placed at the distance of $13\frac{1}{2}$ inches, and a candle at the distance of 55 inches, the lights were equal. In these experiments the candles made use of were $10\frac{3}{4}$ inches long, and $2\frac{5}{8}$ inches in diameter. When the candle was newly snuffed, it appeared to have the advantage; but the lamp soon got the superiority; and on the whole it was concluded, that the lamp is at least equivalent to half a dozen of tallow candles of six in the pound; the expence of the one being only two pence halfpenny, and the other eight pence in seven hours.

The best method of comparing the two lights together seems to be the following. Place the greater light at a considerable distance from a white paper, the smaller one being brought nearer or removed farther off as occasion requires. If an angular body be held before the paper, it will project two shadows: these two shadows can coincide only in part; and their angular extremities will, in all positions but one, be at some distance from each other; and being made to coincide in a certain part of their bulk, they will be bordered by a lighter shadow, occasioned by the exclusion of the light from each of the two luminous bodies respectively. These lighter shadows, in fact, are spaces of the white paper illuminated by the different luminous bodies, and may easily be compared together, because at a certain point they actually touch one another. If the space illuminated by the smaller light appear brightest, the light must be removed farther off, but the contrary if it appear more obscure.

On cutting open one of Argand's wicks longitudinally, and thus reducing the circular flame to a straight lined one, the lights appeared quite equal in power; but the circular one had by far the greatest effect in dazzling the eyes; though when the long flame was made to shine on the paper, not by the broadside, but in the direction of its length, it appeared more dazzling than the other. On placing this long flame at right angles to the ray of Argand's lamp, it projected no shadow; but when its length was placed in the direction of the ray, it gave a shadow bordered with two broad, well defined, and bright lines.

The broad-wicked lamp seems to have the advantage of the other, as requiring less apparatus; and indeed by this contrivance we may at the most trifling expence have a lamp capable of giving any degree of light we

please. The only disadvantage attending either the one or the other is, that they cannot easily be carried from one place to another; and in this respect it does not seem possible by any means to bring lamps to an equality with candles.

LAMP-Black, among colourmen. See *COLOUR-Making*, n° 18, 19.—Substances painted with lamp-black and oil, are found to resist the effects of electricity to a surprising degree; so that in many cases even lightning itself seems to have been repelled by them. See *LIGHTNING*; *THUNDER*; *CHEMISTRY*, n° 700. and *ELECTRICITY*, p. 478. col. 1.

LAMPADARY, an officer in the ancient church of Constantinople, so called from his employment, which was to take care of the lamps, and to carry a taper before the emperor or patriarch when they went to church or in procession.

LAMPAS, in farriery. See there, § xxxv.

LAMPREY. See *PETROMYZON*.

LAMPRIIDIUS (*Ælius*), a Latin historian, who lived under the emperors Dioclesian and Constantine the Great. We have, of his writing, the lives of four emperors, Antoninus, Commodus, Diadumenus, and Heliogabalus. Some attribute the life of Alexander Severus to him; but the MS. in the palatine library ascribes it to Spartian.

LAMPRIIDIUS (*Benedict*), of Cremona, a celebrated Latin poet of the 16th century. He taught Greek and Latin at Rome and at Padua, until he was invited to Mantua by Frederic Gonzaga to undertake the tuition of his son. We have epigrams and lyric verses of this writer, both in Greek and Latin, which were printed separately, as well as among the *Deliciae* of the Italian poets.

LAMPSACUS, or **LAMPSACUM**, (anc. geog.), a considerable city of Mysia; more anciently called *Pilyea*, (Homer), because abounding in pine-trees, a circumstance confirmed by Pliny; situated at the north end or entrance of the Hellespont into the Propontis, with a commodious harbour, opposite to Callipolis in the Thracian Chersonesus. It was assigned by Artaxerxes to Themistocles, for furnishing his table with wine, in which the country abounded. It was saved from the ruin threatened by Alexander because in the interest of Persia, by the address of Anaximenes the historian, sent by his fellow-citizens to avert the king's displeasure; who hearing of it, solemnly declared he would do the very reverse of Anaximenes's request, who therefore begged the king utterly to destroy it, which he could not do because of his oath. *Lampsacius* the epithet, denoting *lascivus*, the character of the people: still called *Lampsacus*. E. Long. 28°. N. Lat. 40. 12.

LAMPYRIS, the **FIRE-FLY**, a genus of insects belonging to the coleoptera order; the characters of which are: The antennæ are filiform; the elytra are flexible; the thorax is flat, of a semiorbicular form, surrounding and concealing the head. The segments of the abdomen terminate in papillæ, which are turned up towards the elytra, and partly fold one over the other. The females in general are apterous.

There are 18 species; of which the most remarkable is the noctiluca. The male of this insect is less than the female: its head is shaped exactly in the same manner, and covered likewise by the plate of the thorax, only it appears rather longer than that of the female.

Lampyrus
Lancarim.

male. Both the head and antennæ are black. The thorax of the male, which is smaller and shorter than that of the female, has the folds and papillæ on its sides much less remarkable: but the greatest difference that is found between the two sexes is, that the male is covered with brown elytra, shagreened and marked with two lines longitudinally. The elytra are longer than the abdomen, and under them lie the wings. The two last rings of the abdomen are not so bright as those of the female, only there appear four luminous points, two upon each of the two last rings.

Barbut on
Insects.

The insect called *glow-worm*, and which is frequently met with towards evening, in the month of June, in woods and meadows, is the female belonging to this species. By the shining light which it emits, it attracts the male; a wonderful instance of the divine providence. It is apparent that their shining light depends on a liquor placed at the lower extremity of the insect, which when in motion, the light is more lively and shining, and of a finer green. This light the insect withdraws at pleasure, either by unfolding or contracting itself. As a proof that the light depends on a phosphorous matter, you may crush the animal, which, though dead and bruised, leaves a luminous substance on the hand, that only loses its lustre when dried.

The perfect insect flies about during the evening in autumn, and frequents the grassy plantations of juniper trees.

LAMY, or LAMI, (Bernard), was born at Mons in 1640, and studied there under the fathers of the oratory; with whose way of life he was so pleased, that he went to Paris in 1658, and entered into the institution. He had a great taste for the sciences, and studied them all; he entered into the priesthood in 1667, and taught philosophy at Saumur and Angiers; which latter place he was obliged to quit by an order procured from court for adopting the new philosophy instead of that of Aristotle. In 1676 he went to Grenoble, where cardinal Camus was then bishop; who conceived such an esteem for him, that he retained him near his person, and derived considerable services from him in the government of his diocese. After continuing many years there, he went to reside at Rouen, where he died in 1715. He wrote several scientific works, besides others in divinity.

LANCARIM SPRING, the name of a medicated water of Glamorganshire. It has its name from a town near which it rises; and has been very long famous in the place for the cure of the king's evil. The body of water is about an ell broad, and runs between two hills covered with wood. About 12 yards from this spring the rill falls from a rock of about eight or nine feet high, with a considerable noise. The spring is very clear, and rises out of a pure white marle. The cures that have been performed there, are proofs of a real power in the water; but there is some question whether the water, or its motion and coldness, does the good; for the people who come for relief always drink of the spring, and bathe the part afterward in the fall below. It is generally supposed that the limestone rocks communicate a virtue to it by which it cures internally; but it has been often found, that the holding a limb disordered with the evil in the strong

current of a mill-tail has cured it, and there is the same advantage in the fall of this water. Lancashire.

LANCASHIRE, a large maritime province of England, washed by the Irish sea on the west, bordering on the north with part of Cumberland and Westmoreland; bounded on the east by the West Riding of Yorkshire, and on the west by Cheshire; extending 73 miles in length and 41 in breadth, comprehending 6 hundreds, 63 parishes, 27 market-towns, 894 villages, about 43,000 houses, and about 260,000 inhabitants.

The eastern parts of the province are rocky, and in the northern districts we see many single mountains remarkably high, such as Ingleborough-hill, Clough-bohill, Pendle-hill, and Longridge-hill. Nor is there any want of wood in this country, either for timber or fuel; witness Wiersdale forest and Bowland forest to the northward, and Simon's wood in the southern part of Lancashire.

This country is well watered with rivers and lakes. Among the lakes or meres of Lancashire, we reckon the Winander-mer, and the Kiningston-mer, which, though neither so large nor so well stored with fish, yet affords plenty of excellent char. There was on the south side of the Ribble another lake called *Marton*, several miles in circumference, which is now drained, and converted into pasture ground. In this operation, the workmen found a great quantity of fish, together with eight canoes, resembling those of America, supposed to have been used by the ancient British fishermen. Besides these meres or lakes, this county abounds with morasses and mosses, from which the inhabitants dig excellent peat or turf for fuel, as well as marle for manuring the ground, and trunks of old fir-trees, supposed to have lain there since the general deluge. Some of these are so impregnated with turpentine, that when divided into splinters, they burn like candles, and are used for that purpose by the common people. There is a great variety of mineral waters in this county, some periodical springs, and one instance of a violent eruption of water at Kirky in Fourness. The most remarkable chalybeate spaws are those of Latham, Wigan, Stockport, Burnley, Bolton, Plumpton, Middleton, Strangeways, Lancaster, Larbrick, and Chorly. At Ancliff, in the neighbourhood of Wigan, is a fountain called the *Burning Well*, from whence a bituminous vapour exhales, which being set on fire by a candle burns like brandy, so as to produce a heat that will boil eggs to a hard consistence, while the water itself retains its original coldness*. There is at Barton a fountain of salt-water, so strongly impregnated with the mineral, as to yield six times as much as can be extracted from the same quantity of sea-water. At Rogham, in Fourness, there is a purging saline fountain; and in the neighbourhood of Rassel, where the ground is frequently overflowed by the sea, a stream descends from Hagbur-hills, which in the space of seven years is said to convert the marle into a hard freestone fit for building. The air of Lancashire is pure, healthy, and agreeable, except among the fens and on the sea-shore, where the atmosphere is loaded with putrid exhalations, producing malignant and intermitting fevers, scurvy, rheumatism, dropsy, and consumption. The soil is various in different parts of the county, poor and rocky on the hills, fat and fertile in the valleys and

* See *Burning Well*.

Lancashire. and champaign country. The colour of the peat is white, grey, or black, according to the nature of the composition and the degree of putrefaction which the ingredients have undergone. There is a bituminous earth about Ormskirk, that smells like the oil of amber, and indeed yields an oil of the same nature, both in its scent and medicinal effects, which moreover reduces raw flesh to the consistence of mummy; this earth burns like a torch, and is used as such by the country people. The metals and minerals of this county consist of lead, iron, copper, antimony, black lead, lapis calaminaris, spar, green vitriol, alum, sulphur, pyrites, freestone, and pit and cannel-coal.

The level country produces plenty of wheat and barley, and the skirts of the hills yield good harvests of excellent oats: very good hemp is raised in divers parts of the province; and the pasture which grows in the valley is so peculiarly rich, that the cattle which feed upon it are much larger and fatter than in any other part of England. There is not any part of the world better supplied than Lancashire with provisions of all kinds at a very reasonable rate; such as beef, veal, mutton, lamb, pork, poultry, and game of all sorts, caught upon the moors, heaths, and commons, in the hilly part of the shire. Besides the sea-fowl common to the shires of England, such as ducks, easterlings, teal, and plover, many uncommon birds are observed on the coast of Lancashire, the sea-crow, variegated with blue and black, the puffin, the cormorant, the curlew, the razor-bill, the copped wren, the red-shanks, the swan, the tropic bird, the king's-fisher, &c.

The chief manufactures of this county are woollen and cotton cloths of various kinds, tickings, and cotton velvets, for which Manchester is particularly famous. The principal rivers are the Mersey, which parts Cheshire and this county; and the Ribble, which rises in Yorkshire, and enters this county at Clithero, running south-west by Preston into the Irish sea. Besides these there are many lesser streams. The navigation made by his grace the duke of Bridgewater in this county, is highly worthy of notice. This was begun so lately as about 20 years ago; it bears vessels of 60 tons burden, and is carried over two rivers, the Mersey and the Irwell. The fough, or adit, which was necessary to be made, in order to drain the water from the coal mines, is rendered navigable for boats of 6 or 7 tons burden, and forms a kind of subterraneous river, which runs about a mile and a half under ground, and communicates with the canal. This river leads to the head of the mines, is arched over with brick, and is just wide enough for the passages of the boats: at the mouth of it are two folding doors, which are closed as soon as you enter, and you then proceed by candle-light, which casts a livid gloom, serving only to make darkness visible. But this dismal gloom is rendered still more awful by the solemn echo of this subterraneous water, which returns various and discordant sounds. One while you are struck with the grating noise of engines, which by a curious contrivance let down the coals into the boats; then again you hear the shock of an explosion, occasioned by the blowing up the hard rock, which will not yield to any other force than that of gunpowder; the next minute your

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ears are saluted by the songs of merriment from either sex, who thus beguile their labours in the mine. You have no sooner reached the head of the works, than a new scene opens to your view. There you behold men and women almost in the primitive state of nature, toiling in different capacities, by the glimmering of a dim taper, some digging coal out of the bowels of the earth; some again loading it in little waggons made for the purpose; others drawing those waggons to the boats. To perfect this canal, without impeding the public roads, bridges are built over it, and where the earth has been raised to preserve the level, arches are formed under it: but what principally strikes every beholder, is a work raised near Barton-bridge, to convey the canal over the river Mersey. This is done by means of three stone arches, so spacious and lofty as to admit vessels sailing through them; and indeed nothing can be more singular and pleasing, than to observe large vessels in full sail under the aqueduct, and at the same time the duke of Bridgewater's vessels sailing over all, near fifty feet above the navigable river. By this inland navigation communication has been made with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles in the counties of Lincoln, Nottingham, York, Lancaster, Westmoreland, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c.

Lancashire was erected into a county-palatine by Edward III. who conferred it as an appendage on his son John of Ghaunt, thence called *duke of Lancaster*: but the duchy contained lands that are not in Lancashire, and among other demesnes, the palace of the Savoy, and all that district in London, which indeed belong to it at this day. The revenues of this duchy are administered by a court which sits at Westminster, and a chancery-court at Preston, which has a seal distinct from that of the county-palatine. The title of *Lancaster* distinguished the posterity of John of Ghaunt from those of his brother, who succeeded to the duchy of York, in their long and bloody contest for the crown of England.—Lancashire sends two members to parliament for the county; and 12 for the six boroughs of Lancaster, Preston, Newton, Wigan, Clitheroe, and Liverpool.

LANCASTER, the capital of the county of Lancashire in England, is pleasantly situated on the south side of the river Lun, over which there is a handsome stone-bridge. It is an ancient town, and is supposed to have been the *Longovicum* of the Romans. King John confirmed to the burgesses all the liberties he had granted to those of Bristol; and Edward III. granted that pleas and sessions should be held here, and no where else in the county. It is governed by a mayor, recorder, 7 aldermen, 2 bailiffs, 12 capital burgesses, 12 common burgesses, a town-clerk, and 2 serjeants at mace. The assizes are held in the castle, where is also the county gaol. It trades to America with hardware and woollen manufactures in vessels of 70 tons. There is a market on Wednesday by grant, and another on Saturday by prescription, besides one every other Wednesday throughout the year for cattle; and three fairs, in May, July, and October. The castle is not large, but neat and strong. Not very long ago,

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in digging a cellar, there were found several Roman utensils and vessels for sacrifices, as also the coins of Roman emperors; so that it is supposed there was here a Roman fortress. On the top of the castle is a square tower, called *John of Gaunt's chair*, whence there is a charming prospect of the adjacent country, and especially towards the sea, where is an extensive view even to the Isle of Man. There is but one church, a fine Gothic building. It is placed on the same elevation, and from some points of view forms one group, with the castle, which gives the mind a most magnificent idea of this important place. The late considerable additional new streets and a new chapel, with other improvements, give an air of elegance and prosperity to the town; and the new bridge of 5 equal elliptical arches, in all 549 feet in length, adds not a little to the embellishments and conveniency of the place. Adjoining to the castle, the new gaol is erected on an improved plan. On the side of the hill below it, hangs a piece of a Roman wall, called *Wery-wall*. Here is a custom-house. By the late inland navigation, it has communication with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extend above 500 miles in the counties of Lincoln, Nottingham, York, Westmoreland, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c. For its peculiar government, see *Duchess Court*.

LANCE, LANCEA, a spear; an offensive weapon worn by the ancient cavaliers, in form of a half pike. The lance consisted of three parts, the shaft or handle, the wings, and the dart. Pliny attributes the invention of lances to the Ætolians. But Varro and Aulus Gellius say the word lance is Spanish; whence others conclude the use of this weapon was borrowed by the people of Italy from the Spaniards. Diodorus Siculus derives it from the Gaulish, and Festus from the Greek *λανξ*, which signifies the same.

LANCE, in ichthyology. See AMMODYTES.

LANCEOLATED LEAF. See BOTANY, p. 442.

LANCET, a chirurgical instrument, sharp-pointed and two-edged, chiefly used for opening veins in the operation of phlebotomy or bleeding; also for laying open abscesses, tumors, &c.

LANCH, a peculiar sort of long boat, used by the French, Spanish, and Italian shipping, and in general by those of other European nations when employed in voyaging in the Mediterranean sea.

A lanch is proportionably longer, lower, and more flat-bottomed than the long-boat; it is by consequence less fit for sailing, but better calculated for rowing and approaching a flat shore. Its principal superiority to the long-boat, however, consists in being by its construction much fitter to under-run the cable; which is a very necessary employment in the harbours of the Levant sea, where the cables of different ships are fastened across each other, and frequently render this exercise extremely necessary.

LANCH, is also the movement by which a ship or boat descends from the shore, either when she is at first built, or at any time afterwards.

To facilitate the operation of lanching, and prevent any interruption therein, the ship is supported by two strong platforms, laid with a gradual inclination

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to the water, on the opposite sides of her keel, to which they are parallel. Upon the surface of this declivity are placed two corresponding ranges of planks, which compose the base of a frame called the *cradle*, whose upper part envelopes the ship's bottom, whereto it is securely attached. Thus the lower surface of the cradle, conforming exactly to that of the frame below, lies flat upon it lengthwise, under the opposite sides of the ship's bottom; and as the former is intended to slide downwards upon the latter, carrying the ship along with it, the planes or faces of both are well daubed with soap and tallow.

The necessary preparations for the lanch being made, all the blocks and wedges, by which the ship was formerly supported, are driven out from under her keel, till her whole weight gradually subsides upon the platforms above described, which are accordingly called the *ways*. The shores and stanchions, by which she is retained upon the stocks till the period approaches for lanching, are at length cut away, and the screws applied to move her if necessary. The motion usually begins on the instant when the shores are cut, and the ship slides downward along the ways, which are generally prolonged under the surface of the water, to a sufficient depth to float her as soon as she arrives at the farthest end thereof.

When a ship is to be lanchd, the ensign, jack, and pendant, are always hoisted, the last being displayed from a staff erected in the middle of the ship.

Ships of the first rate are commonly constructed in dry docks, and afterwards floated out, by throwing open the flood-gates, and suffering the tide to enter as soon as they are finished.

LANCEROTA, one of the Canary islands, subject to Spain, and situated in W. Long. 13. 5. N. Lat. 28. 40. It is about 32 miles in length and 22 in breadth. The ancient inhabitants were negroes, very strong, active, and swift of foot. There is a ridge of hills runs quite through it, on which are fed a good number of sheep and goats. They have but few black cattle, still fewer camels, and a very few small horses. The valleys are dry and sandy, yet they produce a small quantity of wheat and barley. This island was first discovered in 1417. In 1596 it was taken by the English under the command of the earl of Cumberland: after which it was better fortified than before. There is in this island a city called also *Lancerota*, which, at the time the earl of Cumberland was there, consisted only of about 100 houses, all poor buildings, generally of one story, and covered with reeds or straw laid upon a few rafters, and over all a coat of dirt hardened by the sun. There was also a church which had no windows in it, and was supplied with light only by the door.

LANCIANO, a considerable town of Italy, in the kingdom of Naples, and in the Hither Abruzzo, with an archbishop's see; famous for its fairs, which are held in July and August. It is seated on the river Feltrino near that of Sangor. E. Long. 15. 5. N. Lat. 42. 12.

LANCISI (John Marca), an eminent Italian physician, was born at Rome in 1654. From his earliest years he had a turn to natural history; and studied botany, chemistry, anatomy, and medicine, with great vigour. In 1688 Pope Innocent XI. appointed him

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his physician and private chamberlain, notwithstanding his youth; and cardinal Altieri Camerlinga made him his vicar for the installation of doctors in physic, which Pope Clement XI. gave him as long as he lived, as well as continued to him the appointments conferred on him by his predecessor. He died in 1710, after giving his fine library of more than 20,000 volumes to the hospital of the Holy Ghost for the use of the public. This noble benefaction was opened in 1716, in the presence of the pope and most of the cardinals. He wrote many works which are esteemed, the principal of which were collected together, and printed at Geneva in 1718, in two volumes quarto.

LANCRET (Nicholas), a French painter, born at Paris in 1690. He was the disciple of Watteau and Gilt, and painted conversations. He was indefatigable in his profession, executed with great truth after Nature, grouped his figures well, and handled a light pencil. He died in 1743.

LANCRINCK (Prosper Henry), a painter of considerable note, born in 1628, and educated in the school at Antwerp. He studied principally after Titian and Salvator Rosa; and met with encouragement in England suitable to his merit. His landscapes show a good invention, good colouring, and harmony: they are chiefly of rough rude country, with broken ground and uncommon scenery. He gave way too much to pleasure, and died in 1692.

LAND, in a general sense, denotes *terra firma*, as distinguished from sea.

LAND, in a limited sense, denotes arable ground. See AGRICULTURE.

LAND, in the sea-language, makes part of several compound terms; thus, *land-laid*, or, *to lay the land*, is just to lose sight of it. *Land-locked*, is when land lies all round the ship, so that no point of the compass is open to the sea. If she is at anchor in such a place, she is said to ride *land-locked*, and is therefore concluded to ride safe from the violence of the winds and tides. *Land-mark*, any mountain, rock, steeple, tree, &c. that may serve to make the land known at sea. *Land is shut in*, a term used to signify that another point of land hinders the sight of that from which the ship came. *Land-to*, or the ship *lies land-to*; that is, she is so far from shore, that it can only just be discerned. *Land-turn* is a wind that in almost all hot countries blows at certain times from the shore in the night. *To set the land*; that is, to see by the compass how it bears.

LAND-Tax, one of the annual taxes raised upon the subject. See TAX.

The land-tax, in its modern shape, has superseded all the former methods of rating either property or persons in respect of their property, whether by tenths or fifteenths, subsidies on land, hydages, scutages, or talliages; a short explication of which will, however, greatly assist us in understanding our ancient laws and history.

Tenths and fifteenths were temporary aids issuing out of personal property, and granted to the king by parliament. They were formerly the real tenth or fifteenth part of all the moveables belonging to the subject; when such moveables, or personal estates, were a very different and a much less considerable thing than what they usually are at this day. Tenths

are said to have been first granted under Henry II. who took advantage of the fashionable zeal for crusades to introduce this new taxation, in order to defray the expence of a pious expedition to Palestine, which he really or seemingly had projected against Saladin emperor of the Saracens, whence it was originally denominated the *Saladine tenth*. But afterwards fifteenths were more usually granted than tenths. Originally the amount of these taxes was uncertain, being levied by assessments new-made at every fresh grant of the commons, a commission for which is preserved by Matthew Paris: but it was at length reduced to a certainty in the eighth year of Edward III. when, by virtue of the king's commission, new taxations were made of every township, borough, and city in the kingdom, and recorded in the exchequer; which rate was, at the time, the fifteenth part of the value of every township, the whole amounting to about 29,000*l.* and therefore it still kept up the name of a *fifteenth*, when, by the alteration of the value of money and the increase of personal property, things came to be in a very different situation. So that when, of later years, the commons granted the king a fifteenth, every parish in England immediately knew their proportion of it; that is, the same identical sum that was assessed by the same aid in the eighth of Edward III.; and then raised it by a rate among themselves, and returned it into the royal exchequer.

The other ancient levies were in the nature of a modern land-tax: for we may trace up the original of that charge as high as to the introduction of our military tenures; when every tenant of a knight's fee was bound, if called upon, to attend the king in his army for 40 days in every year. But this personal attendance growing troublesome in many respects, the tenants found means of compounding for it, by first sending others in their stead, and in process of time by making a pecuniary satisfaction to the crown in lieu of it. This pecuniary satisfaction at last came to be levied by assessments, at so much for every knight's fee, under the name of scutages; which appear to have been levied for the first time in the fifth year of Henry II. on account of his expedition to Toulouse, and were then (Sir Wm. Blackstone apprehends) mere arbitrary compositions, as the king and the subject could agree. But this precedent being afterwards abused into a means of oppression (by levying scutages on the landholders by the king's authority only, whenever our kings went to war, in order to hire mercenary troops and pay their contingent expences), it became thereupon a matter of national complaint; and King John was obliged to promise in his *magna carta*, that no scutage should be imposed without the consent of the common council of the realm.

Of the same nature with scutages upon knights-fees were the assessments of hydage upon all other lands, and of talliage upon cities and burghs. But they all gradually fell into disuse, upon the introduction of subsidies, about the time of King Richard II. and King Henry IV. These were a tax, not immediately imposed upon property, but upon persons in respect of their reputed estates, after the nominal rate of 4*s.* in the pound for lands, and 2*s.* 6*d.* for goods; and for those of aliens in a double proportion. But this assessment was also made according to an ancient valuation; wherein

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Land. wherein the computation was so very moderate, and the rental of the kingdom was supposed to be so exceeding low, that one subsidy of this sort did not, according to Sir Edward Coke, amount to more than 70,000*l.* whereas a modern land-tax at the same rate produces two millions. It was anciently the rule never to grant more than one subsidy and two fifteenths at a time: but this rule was broke through for the first time on a very pressing occasion, the Spanish invasion in 1588; when the parliament gave Queen Elizabeth two subsidies and four fifteenths. Afterwards, as money sunk in value, more subsidies were given; and we have an instance, in the first parliament of 1640, of the king's desiring 12 subsidies of the commons, to be levied in three years; which was looked upon as a startling proposal: though Lord Clarendon tells us, that the speaker, serjeant Glanville, made it manifest to the house, how very inconsiderable a sum 12 subsidies amounted to, by telling them he had computed what he was to pay for them; and when he named the sum, he being known to be possessed of a great estate, it seemed not worth any farther deliberation. And, indeed, upon calculation, we shall find, that the total amount of these 12 subsidies, to be raised in three years, is less than what is now raised in one year by a land-tax of 2*s.* in the pound.

The grant of scutages, talliages, or subsidies by the commons, did not extend to spiritual preferments; those being usually taxed at the same time by the clergy themselves in convocation: which grants of the clergy were confirmed in parliament; otherwise they were illegal, and not binding; as the same noble writer observes of the subsidies granted by the convocation, which continued fitting after the dissolution of the first parliament in 1640. A subsidy granted by the clergy was after the rate of 4*s.* in the pound, according to the valuation of their livings in the king's books; and amounted, Sir Edward Coke tells us, to about 20,000*l.* While this custom continued, convocations were wont to sit as frequently as parliaments: but the last subsidies, thus given by the clergy, were those confirmed by statute 15 Car. II. c. 10. since which another method of taxation has generally prevailed, which takes in the clergy as well as the laity: in recompense for which, the beneficed clergy have from that period been allowed to vote at the election of knights of the shire; and thenceforward also the practice of giving ecclesiastical subsidies hath fallen into total disuse.

The lay-subsidy was usually raised by commissioners appointed by the crown, or the great officers of state: and therefore in the beginning of the civil wars between Charles I. and his parliament, the latter, having no other sufficient revenue to support themselves and their measures, introduced the practice of laying weekly and monthly assessments of a specific sum upon the several counties of the kingdom; to be levied by a pound-rate on lands and personal estates: which were occasionally continued during the whole usurpation, sometimes at the rate of 120,000*l.* a month, sometimes at inferior rates. After the Restoration, the ancient method of granting subsidies, instead of such monthly assessments, was twice, and twice only, renewed; viz. in 1663, when four subsidies were granted

by the temporality and four by the clergy; and in 1670, when 800,000*l.* was raised by way of subsidy, which was the last time of raising supplies in that manner. For the monthly assessments being now established by custom, being raised by commissioners named by parliament, and producing a more certain revenue; from that time forwards we hear no more of subsidies, but occasional assessments were granted as the national emergencies required. These periodical assessments, the subsidies which preceded them, and the more ancient scutage, hydag, and talliage, were to all intents and purposes a land-tax; and the assessments were sometimes expressly called so. Yet a popular opinion has prevailed, that the land-tax was first introduced in the reign of King William III.; because in the year 1692 a new assessment or valuation of estates was made throughout the kingdom: which, though by no means a perfect one, had this effect, that a supply of 500,000*l.* was equal to 1*s.* in the pound of the value of estates given in. And, according to this enhanced valuation, from the year 1693 to the present, a period of near a century, the land-tax has continued an annual charge upon the subject; about half the time at 4*s.* in the pound, sometimes at 3*s.* sometimes at 2*s.* twice at 1*s.* but without any total intermission. The medium has been 3*s.* 3*d.* in the pound; being equivalent to 23 ancient subsidies, and amounting annually to more than a million and a half of money. The method of raising it is by charging a particular sum upon each county, according to the valuation given in, A. D. 1692; and this sum is assessed and raised upon individuals (their personal estate, as well as real, being liable thereto), by commissioners appointed in the act, being the principal land holders in the county and their officers.

An act passes annually for the raising, in general, 2,037,627*l.* 9*s.* 10½*d.* by the above said tax at 4*s.* in the pound; whereof there shall be raised in the several counties in England, according to the proportions expressed in the act, 1,989,673*l.* 7*s.* 10½*d.*; and in Scotland, 47,954*l.* 1*s.* 2*d.* by an eight months cess of 5994*l.* 5*s.* 1½*d.* *per mensem*, to be raised out of the land-rent, and to be paid at four terms, as specified in the act, by two months amount each time.

Land-Waiter, an officer of the custom-house, whose duty is, upon landing any merchandise, to examine, taste, weigh, measure them, &c. and to take an account thereof. In some ports they also execute the office of a coast-waiter. They are likewise occasionally styled *searchers*, and are to attend and join with the patent searcher in the execution of all cockets for the shipping of goods to be exported to foreign parts; and in cases where drawbacks on bounties are to be paid to the merchant on the exportation of any goods, they, as well as the patent searchers, are to certify the shipping thereof on the debentures.

LANDAFF, a town or village of Glamorganshire in South Wales, with a bishop's see, and on that account has the title of a *city*. It is seated upon an ascent on the river Taff, or Tave, near Cardiff; but the cathedral stands on a low ground, and is a large stately building. The original structure was built about the beginning of the 12th century. The building now used as the cathedral includes part of the

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body of the ancient one; but is in other respects as modern as the present century, about the middle of which the old church underwent such reparation as was almost equivalent to rebuilding. The ruins are at the west end of the modern church, and consist of the original western door-way, and part of the north and south sides. The arch over the door is circular, and has a well carved episcopal statue immediately over it. On the upper part of the front under which this door stands is a whole length figure of the Virgin Mary, with a cross on the apex of the building. In this front are two rows of neat-pointed arches for windows; and on the north and south sides above mentioned are two circular door-cases half sunk in the earth. These ruins exhibit an aspect very different from the present cathedral, the new part of which the architect formed principally on the Roman model, without considering how incongruous this style of architecture is with the plan pursued in the ancient part.—Landaff is a place of but small extent, and has no market. It is a port town, however, and carries on a good trade, as it has a very tolerable harbour that opens into the Severn river about four miles distant. The ruins of the bishop's palace show it to have been castellated. It was built in 1120, and was destroyed by Henry IV. W. Long. 3. 20. N. Lat. 51. 33.

LANDAU, an ancient, handsome, and very strong town of France, in Lower Alsace. It was formerly imperial, and belonged to Germany, till the treaty of Munster, when it was given up to France. It is seated on the river Zurich, in a pleasant fertile country. E. Long. 8. 12. N. Lat. 49. 12.

LANDEN, a town of the Austrian Netherlands, in Brabant, famous for a battle gained over the French by the allies, in July 1693, when 20,000 men were killed. It is seated on the river Beck, in E. Long. 5. 5. N. Lat. 52. 45.

LANDEN (JOHN, F. R. S.) an eminent mathematician, was born at Peakirk, near Peterborough in Northamptonshire, in January 1719. He became very early a proficient in the mathematics, for we find him a very respectable contributor to the Ladies Diary in 1744; and he was soon among the foremost of those who then contributed to the support of that small but valuable publication, in which almost every English mathematician, who has arrived at any degree of eminence for the last half century, has contended for fame at one time of his life or other. Mr Landen continued his contributions to it at times, and under one signature or other, till within a few years of his death.

It has been frequently observed, that the histories of literary men consist chiefly of an history of their writings, and the observation was never more fully verified than it will be in this article concerning Mr Landen.

In the 48th volume of the Philosophical Transactions for the year 1754, Mr Landen gave "An investigation of some theorems which suggest several very remarkable properties of the circle, and are at the same time of considerable use in resolving fractions, the denominators of which are certain multinomials into more simple ones, and by that means facilitate the computation of fluents." This ingenious paper was handed to the Society by that eminent mathematician the late

Thomas Simpson of Woolwich, a circumstance which will convey to those who are not themselves judges of it some idea of its merit. In the year 1755, he published a volume of about 160 pages, intitled "Mathematical Lucubrations." The title to this publication was made choice of as a means of informing the world, that the study of the mathematics was at that time rather the pursuit of his leisure hours than his principal employment; and indeed it continued to be so the greatest part of his life, for about the year 1762 he was appointed agent to the right honourable the earl Fitzwilliam, and resigned that employment only two years before his death. Had it been otherwise, it seems highly probable he would have extended his researches in the mathematics, to which he was most enthusiastically devoted, much farther than any other person has done. His lucubrations contain a variety of tracts relative to the rectification of curve lines, the summation of series, the finding of fluents, and many other points in the higher parts of the mathematics. About the latter end of the year 1757, or the beginning of 1758, he published proposals for printing by subscription "The Residual Analysis, a new branch of the Algebraic art:" and in 1758 he published a small tract in quarto, intitled "A Discourse on the Residual Analysis," in which he resolved a variety of problems, to which the method of fluxions had been usually applied by a mode of reasoning entirely new; compared those solutions with solutions of the same problems, investigated by the fluxionary method; and showed that the solutions by his new method were, in general, more natural and elegant than the fluxionary ones.

In the 51st volume of the Philosophical Transactions for the year 1760, he gave "A new method of computing the sums of a great number of infinite series." This paper was also presented to the society by his ingenious friend the late Mr Thomas Simpson. In 1764, he published the first book of "The Residual Analysis," in a 4to volume of 218 pages, with several copperplates. In this treatise, besides explaining the principles which his new analysis was founded on, he applied it to drawing tangents and finding the properties of curve-lines; to describing their involutes and evolutes, finding the radius of curvature, their greatest and least ordinates, and points of contrary fluxure; to the determination of their cusps, and the drawing of asymptotes: and he proposed in a second book to extend the application of this new analysis to a great variety of mechanical and physical subjects. The papers which were to have formed this book lay long by him; but he never found leisure to put them in order for the press.

On the 16th of January 1766, Mr Landen was elected a fellow of the Royal Society, and admitted on the 24th of April following. In the 58th volume of the Philosophical Transactions for the year 1768, he gave a "Specimen of a new method of comparing curvilinear areas; by means of which many areas did not appear to be comparable by any other method;" a circumstance of no small importance in that part of natural philosophy which relates to the doctrine of motion. In the 60th volume of the same work for the year 1770, he gave "Some new theorems for com-

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Landen. computing the whole areas of curve lines, where the ordinates are expressed by fractions of a certain form," in a more concise and elegant manner than had been done by Cores, De Moivre, and others who had considered the subject before him. In the 61st volume for 1771, he has investigated several new and useful theorems for computing certain fluents, which are assignable by arcs of the conic sections. This subject had been considered before both by Mr Maclaurin and Mr D'Alembert; but some of the theorems which were given by these celebrated mathematicians, being in part expressed by the difference between an arc of an hyperbola and its tangent, and that difference being not directly attainable when the arc and its tangent both become infinite, as they will do when the whole fluid is wanted, although such fluent be finite; these theorems therefore fail in those cases, and the computation becomes impracticable without farther help. This defect Mr Landen has removed by assigning the *limit* of the difference between the hyperbolic arc and its tangent, while the point of contact is supposed to be removed to an infinite distance from the vertex of the curve. And he concludes the paper with a curious and remarkable property relating to pendulous bodies, which is deducible from those theorems. In the same year he published, "Animadversions on Dr Stewart's computation of the sun's distance from the earth."

In the 65th volume of the Philosophical Transactions for 1775, he gave the investigation of a general theorem, which he had promised in 1771, for finding the length of any arc of a conic hyperbola by means of two elliptic arcs; and observes, that by the theorems there investigated, both the elastic curve and the curve of equable recess from a given point, may be constructed in those cases where Mr Maclaurin's elegant method fails. In the 67th volume for 1777, he gave "A new theory of the motion of bodies revolving about an axis in free space, when that motion is disturbed by some extraneous force, either percussive or accelerative." At this time he did not know that the subject had been handled by any person before him; and he considered only the motion of a sphere's spheroid and cylinder. The publication of this paper, however, was the cause of his being told, that the doctrine of rotatory motion had been considered by M. D'Alembert; and purchasing that author's *Opuscules Mathematiques*, he there learned that M. D'Alembert was not the only one who had considered the matter before him; for M. D'Alembert there speaks of some mathematician, though he does not mention his name, who, after reading what had been written on the subject, doubted whether there be any solid whatever, beside the sphere, in which any line, passing through its centre of gravity, will be a permanent axis of rotation. In consequence of this, Mr Landen took up the subject again; and though he did not then give a solution to the general problem, viz, "To determine the motions of a body of any form whatever, revolving without restraint about any axis passing through its centre of gravity," he fully removed every doubt of the kind which had been started by the person alluded to by M. D'Alembert, and pointed out several bodies, which, under certain dimensions, have that remarkable property. This paper is given, among many others

equally curious, in a volume of Memoirs which he published in the year 1780. But what renders that volume yet more valuable, is a very extensive appendix, containing "Theorems for the calculation of fluents." The tables which contain these theorems are more complete and extensive than any which are to be found in any other author, and are chiefly of his own investigating; being such as had occurred to him in the course of a long and close application to mathematical studies in almost every branch of those sciences. In 1781, 1782, and 1783, he published three little tracts on the summation of converging series, in which he explained and showed the extent of some theorems which had been given for that purpose by M. de Moivre, Mr Sterling, and his old friend Thomas Simpson, in answer to some things which he thought had been written to the disparagement of those excellent mathematicians. It was the opinion of some, that Mr Landen did not show less mathematical skill in explaining and illustrating these theorems, than he has done in his writings on original subjects; and that the authors of them were as little aware of the extent of their own theorems as the rest of the world were before Mr Landen's ingenuity made it obvious to all.

About the beginning of the year 1782, Mr Landen had made such improvements in his theory of rotatory motion, as enabled him, he thought, to give a solution of the general problem specified above; but finding the result of it to differ very materially from the result of the solution which had been given of it by M. D'Alembert, and being not able to see clearly where that gentleman had erred, he did not venture to make his own solution public. In the course of that year, having procured the Memoirs of the Berlin Academy for 1757, which contain M. Euler's solution of the problem, he found that this gentleman's solution gave the same result as had been deduced by M. D'Alembert; but the perspicuity of M. Euler's manner of writing enabled him to discover where he had erred, which the obscurity of the other did not do. The agreement, however, of two writers of such established reputation as M. Euler and M. D'Alembert made him long dubious of the truth of his own solution, and induced him to revise the process again and again with the utmost circumspection; and being every time more convinced that his own solution was right and theirs wrong, he at length gave it to the public in the 75th volume of the Philosophical Transactions for 1785.

The extreme difficulty of the subject, joined to the concise manner in which Mr Landen had been obliged to give his solution in order to confine it within proper limits for the Transactions, rendered it too difficult, or at least too laborious, a piece of business for most mathematicians to read it; and this circumstance, joined to the established reputation of Euler, induced many to think that his solution was right and Mr Landen's wrong; and there did not want attempts to prove it. But notwithstanding these attempts were manifestly wrong, and that every one who perused them saw it, they convinced Mr Landen that there was a necessity for giving his solution at greater length, in order to render it more generally understood. About this time also he met by chance with the late P. Frisi's *Cosmographie Physica et Mathematica*; in the second part of which there is a solution of this problem, agreeing in the

Landen.

Landen
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Landguard.

the result with those of M. Euler and D'Alembert, which is not surprising, as P. Frisi employs the same principle that they did. Here Mr Landen learned that M. Euler had revised the solution which he had given formerly in the Berlin Memoirs, and given it another form and at greater length in a volume published at Gryphiswell in 1765, intitled, *Theoria Motus corporum solidorum seu rigidorum*. Having therefore procured this book, Mr Landen found the same principles employed in it, and of course the same conclusion resulting from them that he had found in M. Euler's former solution of the problems: but as the reasoning was given at greater length, he was enabled to see more distinctly how M. Euler had been led into the mistake, and to set that mistake in a stronger point of view. As he had been convinced of the necessity of explaining his ideas on the subject more fully, so he now found it necessary to lose no time in setting about it. He had for several years been severely afflicted with the stone in the bladder, and toward the latter part of his life to such a degree as to be confined to his bed for more than a month at a time: yet even this dreadful disorder did not abate his ardour for mathematical studies; for the second volume of his Memoirs, just now published, was written and revised during the intervals of his disorder. This volume, beside a solution of the general problem concerning rotatory motion, contains the resolution of the problem concerning the motion of a top; an investigation of the motion of the equinoxes, in which Mr Landen has first of any one pointed out the cause of Sir Isaac Newton's mistake in his solution of this celebrated problem; and some other papers of considerable importance. He just lived to see this work finished, and received a copy of it the day before his death, which happened on the 15th of January 1790, at Milton, near Peterborough, in the 71st year of his age.

LANDERNEAU, a town of France, in Lower Bretagne, seated on the river Elboro, 20 miles east of Brest. In an inn here is a well which ebbs and flows like the sea, but at contrary times. E. Long. 4. 13. N. Lat. 48. 25.

LANDGRAVE (formed of the German *land* "earth," and *graff* or *grave*, "judge" or "count"); a name formerly given to those who executed justice in behalf of the emperors, with regard to the internal policy of the country. The title does not seem to have been used before the 11th century. These judges were first appointed within a certain district of Germany: in process of time the title became hereditary, and these judges assumed the sovereignty of the several districts or countries over which they presided. Landgrave is now applied by way of eminence to those sovereign princes of the empire who possess by inheritance certain estates called *landgravates*, and of which they receive the investiture of the emperor. There are four princes who have this title, viz. those of Thuringia, Hesse, Alsace, and Leuchtenberg. There are also other landgraves who are not princes but counts of the empire. See COUNT.

LANDGRAVIATE, or LANDGRAVATE, the office, authority, jurisdiction, or territory, of a landgrave.

LANDGUARD-FORT seems to belong to Suffolk, but is in the limits of Essex, and has a fine prospect of

the coasts of both counties. It was erected, and is maintained, for the defence of the port of Harwich over against it; for it commands the entry of it from the sea up the Maning-tree water, and will reach any ship that goes in or out. It is placed on a point of land so surrounded with the sea at high-water, that it looks like a little island at least one mile from the shore. The making its foundation solid enough for so good a fortification cost many years labour and a prodigious expence. It was built in the reign of King James I. when it was a much more considerable fortification than now, having four bastions mounted with 60 very large guns, particularly those on the royal bastion, which would throw a 28 pound ball over Harwich. Here is a small garrison, with a governor, and a platform of guns. This fort is refitted and greatly enlarged for the conveniency of the officers of ordnance, engineers, and matrosses; and a barrack built for the soldiers.

LANDISFARN, or LINDESFARN. See *Holr-Island*.

LANDRECY, a town of the French Netherlands in Hainault, ceded to France by the treaty of the Pyrenees, and is now very well fortified. It was besieged by Prince Eugene in 1712, but to no purpose. It is seated on a plain on the river Sambre, in E. Long. 3. 47. N. Lat. 50. 4.

LANDSCAPE, in painting, the view or prospect of a country extended as far as the eye will reach. See PAINTING, n^o 11. and 22.; and DRAWING, Sect. 10.

LANDSCROON, a sea-port town of Sweden, in South-Gothland, and territory of Schonen, seated on the Baltic Sea, within the Sound, 22 miles north of Copenhagen. E. Long. 14. 20. N. Lat. 55. 42.

LANDSDOWN, a place in Somersetshire, near Bath, with a fair on October 10th for cattle and cheese.

LANDSHUT, a strong town of Germany in Lower Bavaria, with a strong castle on an adjacent hill. It is seated on the river Iser, in E. Long. 1. 15. N. Lat. 48. 23. There is another small town of the same name in Silesia, and in the duchy of Schweidnitz, seated on the river Zieder, which falls into the Bauber: and there is also another in Moravia, seated on the river Morave, on the confines of Hungary and Austria.

LANDSKIP. See LANDSCAPE.

LANERKSHIRE, a county of Scotland, called also *Clydesdale*, from the river Clyde, by which it is watered. It is bounded on the north by the county of Dumbarton; on the east by Stirling, Linlithgow, Edinburgh, and Peebles, shires; on the south by Dumfries; and on the west by Ayr and Renfrew shires. Its extent from north to south is about 40 miles, from east to west 36.—The river Clyde, descending from the southern part of this county, divides it into two almost equal parts; and after a course of about 50 miles, meets the tide a little below Glasgow: (see GLASGOW). Proceeding up the river from Glasgow, the country is rich and well cultivated. Bothwell castle, now in ruins, stands on an eminence which overlooks the Clyde. Some of its walls are still remaining, which measure 15 feet in thickness and 60 feet in height. This vast fabric was once the abode of a man the most notoriously marked of any in the annals of

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Scotland Des-
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315. &c.

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Scotland for the audacity and splendor of his crimes. Between this castle and the priory of Blantyre on the opposite side of the Clyde, there is said to have been in ancient times a subterraneous passage under the river. A little above stands Bothwell-bridge, noted for the defeat of the Covenanters by the duke of Monmouth in 1679.—East from Bothwell castle, in an elevated situation, stands the Kirk of Shots, amid a wild and barren country. This dreary waste is covered with heath; and though a high situation, is flat, and very marshy in many places. It is chiefly employed as sheep-walks; and notwithstanding the vicinity of coal and lime, seems scarce capable of cultivation. This want is, however, compensated by the abundance of iron-stone and coal, which are here brought together by the hand of nature. Nor is this advantage confined to the barren tract in the north-east corner of the shire. The whole county abounds with these valuable minerals; and two iron works are erected on the banks of the Clyde, one a little above Glasgow and another at Cleland near Hamilton. But the most considerable work of this kind in the county is that of Cleugh, a few miles south-east from the Kirk of Shots. A village is here built for the accommodation of the workmen. It is called *Wilfontown* from the name of the proprietors.—The small borough of Lanerk is situated on the brow of a hill, on the north-east side of the Clyde, commanding a fine prospect over the river. In this neighbourhood are some of the greatest cotton manufactories in Scotland. The Clyde near this place runs for several miles between high rocks covered with wood; and in its course exhibits many astonishing cataracts: (see the article CLYDE).—From Lanerk, passing the village of Carstairs, a few miles to the east we meet the small town of Carnwath. In this neighbourhood, and along the Clyde to the south-east, there is much cultivation and rich pasture.—To the south of Carnwath is the town of Biggar; where is seen the ruin of a collegiate church founded in 1545.—The lands about the villages of Coulter and Lammington are fertile; but farther up the Clyde we meet with nothing but sheep-walks and pasture-grounds in tracing it to its source.

In the southern part of the shire, generally called Clydesdale, the country is not less wild. Among the mountains here, or rather in a hollow near their summit, we meet with the village of Leadhills, by some said to be the highest human habitation in the island of Great Britain. Here, however, reside many hundreds of miners with their families. These miners, though in a great measure excluded from society by their situation, yet not only find means to procure a comfortable subsistence, but also pay more attention to the cultivation of the mind than many of their countrymen situated seemingly in more favourable circumstances for the attainment of knowledge. As an evidence of this, they are very intelligent, and have provided a circulating library for the instruction and amusement of the little community belonging to the village.—Amid these mountains particles of gold have sometimes been found washed down by the rains and streams of water; but this desert tract is chiefly valuable for producing metals of inferior worth. “Nothing (says Mr Pennant) can equal the gloomy appear-

ance of the country round. Neither tree, nor shrub, nor verdure, nor picturesque rock, appear to amuse the eye. The spectator must plunge into the bowels of these mountains for entertainment.” The veins of lead lie mostly north and south; and their thickness, which seldom exceeds 40 feet, varies greatly in different parts. Some have been found filled with ore within two fathoms of the surface; others sink to the depth of 90 fathoms. The earl of Hopeton, the proprietor, has in his possession a solid mass of lead-ore from these mines weighing five tons. His lordship has also, it is said, a piece of native gold that weighs two ounces, which was found here. The lead smelted at this place is all sent to Leith, where it has the privilege of being exported free of duty. The scanty pasture afforded by this barren region feeds some sheep and cattle; but those in the neighbourhood of the mines sometimes perish by drinking of the water in which the lead ore has been washed: for the lead-ore communicates a deleterious quality to the water, though that liquid acquires no hurtful taint from remaining in leaden pipes or cisterns. North from this mountainous region lies Crawfordmuir.

About nine miles north of Leadhills, on the east side of the small river Douglas, which falls into the Clyde a few miles below, stands Douglas castle, for many ages the residence of the second family in Scotland. A modern building has been erected on the same site, in imitation of the ancient castle. Near it stands the town of Douglas. A few miles to the north-east is Tinto, a remarkable conic mountain, round the base of which the Clyde makes a noble sweep. Westward, beyond Douglas, the small river Netham descends into the Clyde through the populous parish of Lismahago.—Hamilton house, the seat of the duke of Hamilton, stands in a plain between the rivers Clyde and Avon. It is a magnificent structure, surrounded by many venerable oaks. In the vicinity is the town of Hamilton, which contains many handsome houses: (see HAMILTON). Here are seen the ruins of a collegiate church, founded in 1451. At a little distance from Hamilton-house is an elegant appendage to it called *Chatelherault*, the name of the ancient possessions held by the family in France. This building is seated on the river Avon, and is surrounded by woods and deep dells, and every rural beauty that can produce a pleasing effect on the imagination.—On the west of Hamilton is the little town of Kilbride; and to the south that of Strathavon, surrounded by the fertile tract from which it derives its name. In our way from Hamilton to Glasgow we meet with the ancient borough of Rutherglen, inhabited chiefly by weavers and other manufacturers: and the village of Govan stands on the same side of the river on the road from Glasgow to Renfrew.

LANESBOROUGH, a town of Ireland, situated in the county of Longford and province of Leinster. It is a borough, and returns two members to parliament; patronage in the Dillon family. This place is situated on the river Shannon, 62 miles from Dublin; and has a barrack for a troop of horse. There is a yearly fair here in February. The town gave title of *viscount* to the family of Lane, and now gives title of *earl* to that of Butler. There is a bridge over the Shannon

Lanfranc
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Langeland.

Shannon at Laneshorough into the county Roscommon. N. Lat. 53. 40. W. Long. 8. 6.

LANFRANC, an Italian, born at Pavia, became archbishop of Canterbury in 1070. He disputed against Berengarius in the council held at Rome in 1059, and wrote against him concerning the real presence in the eucharist. He had other disputes, &c. and died in 1089.

LANFRANC (John), an eminent Italian history-painter, born at Parma in 1581. He was first the disciple of Augustin Caracci; and, after his death, of Hannibal, whose taste in design and colouring he so happily attained, that he was intrusted to execute some of his designs in the Farnesian palace at Rome. These he finished in so masterly a manner, that the difference is imperceptible to this day between his work and that of his master. His genius directed him to grand compositions, which he had a peculiar facility in designing and in painting either in fresco or in oil: he did indeed aspire to the grace of Correggio, but could never arrive at his excellence; his greatest power being manifested in composition and fore-shortening. He was deficient in correctness and expression; and his colouring, though sometimes admirable, was frequently too dark. By order of Pope Urban VIII. he painted in St Peter's church at Rome the representation of that saint walking on the water, which afforded the pope so much satisfaction that he knighted him. He died in 1647.

LANGBAINE (Gerard), D. D. a learned English writer, was born in 1608. He was educated at Queen's-college, Oxford; and became keeper of the archives of that university, provost of his college, and doctor of divinity. He was highly esteemed by archbishop Usher, Selden, and several other learned men; and died in 1657-8. He published, 1. An edition of Longinus, in Greek and Latin, with notes. 2. A review of the covenant; and other works.

LANGBAINE, (Gerard), an eminent writer, the son of the former, was born in 1656. He was put apprentice to Mr Symonds, bookseller in St Paul's church-yard: but was soon after called from thence by his mother upon the death of his eldest brother, and by her entered a gentleman-commoner of University-college, Oxford, in 1672. Here he run out a good part of his estate; but afterwards corrected his manner of living, and for some years lived in retirement near Oxford. During this time he improved his taste for dramatic poetry; and at first wrote some small pieces without his name, but afterwards published several works which he publicly owned. In 1690 he was elected inferior beadle of arts in the university of Oxford; and, in January following, was chosen superior beadle of law, but died soon after in 1692. He wrote, 1. The hunter, a discourse on horsemanship. 2. A new catalogue of English plays, with their best editions, and divers remarks on the originals of most plays, and on the plagiaries of several authors. 3. An account of the English dramatic poets.

LANGELAND (Robert), an old English poet of the 14th century, and one of the first disciples of Wickliffe the reformer. He is said to have been born in Shropshire, but we have no account of his family. He wrote *The visions of Pierce Plowman*; a piece

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which abounds with imagination and humour, though dressed to great disadvantage in very uncouth versification and obsolete language. It is written without rhyme, an ornament which the poet has endeavoured to supply by making every verse begin with the same letter. Dr Hickes observes, that this kind of alliterative versification was adopted by Langeland from the practice of the Saxon poets, and that these visions abound with Saxonisms: he styles him *celeberrimus ille satirographus, morum vindex acerrimus*, &c. Chaucer and Spencer have attempted imitations of his visions, and the learned Selden mentions him with honour.

LANGELAND, an island of Denmark in the Baltic sea, in the strait called *the great belt*, and between Zealand, Saland, and Fyonia. It produces plenty of corn, and the principal town is Rutcoping. E. Long. 11. 10. N. Lat. 55. 0.

LANGETZ, a town of France in Touraine, noted for its excellent melons. It is seated on the river Loire, in E. Long. 0. 23. N. Lat. 42. 20.

LANGHORNE (John), D. D. was born at Kirkby-Stephen in Westmoreland. His father was the reverend Joseph Langhorne of Winston, who died when his son was young. After entering into holy orders, he became tutor to the sons of Mr Cracroft, a Lincolnshire gentleman, whose daughter he married. This lady in a short time died: and the loss of her was very pathetically lamented by her husband in a monody; and by another gentleman, Mr Cartwright, in a poem intitled "Constantia." Dr Langhorne held the living of Blagden in Somersetshire at the time of his death, which happened April 1. 1779. He was the author of several literary productions; amongst others, of Poems in 2 vols, 1766; Sermons in 2 vols, 1773; Effusions of Fancy, 2 vols; Theodosius and Constantia, 2 vols; Solyman and Almena; Frederick and Pharamond, or the Consolations of Human Life, 1769; a Dissertation on the Eloquence of the Pulpit; and another on Religious Retirement; and he was editor of the Works of St Evremond, of the Poems of Collins, and some other articles.

LANGIONA, a large, rich, and strong town of Asia, capital of the kingdom of Laos, with a large and magnificent palace where the king resides. E. Long. 96. 45. N. Lat. 22. 38.

LANGOBARDI, a people of Germany situated between the Elbe and the Oder, in the Marche of Brandenburg, whom their paucity ennobled; in regard that being encompassed by many and powerful nations they preserved themselves, not so much by submission, as by dint of arms and encountering dangers, (Tacitus).

LANGPORT, in Somersetshire, 132 miles from London, is a well-frequented town on the Parrot, between Bridgewater and Crewkern. It sent members to three parliaments, and is governed by a portreeve and a recorder. Here are lighters constantly fetching coals, &c. from Bridgewater; and it is a stage for the Taunton waggon, which drops the goods here from London to be carried farther by water. Eels are taken in vast plenty out of the holes of the banks of the river in frosty weather. The market here is on Saturday, and there are four fairs in the year.

LANGREL-SHOT, at sea, that consisting of two bars of iron joined by a chain or shackle, and having

Langres half a ball of iron fixed on each end; by means of which apparatus it does great execution among the enemy's rigging.

LANGRES, an ancient and considerable town of France in Champagne, with a bishop's see. The cutlery-wares made here are in high esteem. It is seated on a mountain near the river Mearne, in E. Long. 4. 24. N. Lat. 47. 52.

LANGTON (Stephen), was born in England, but educated at Paris, and was greatly esteemed for his learning by the king and nobility of France. He was chancellor of Paris, a cardinal of Rome, and in the reign of king John was made archbishop of Canterbury by Pope Innocent III. in opposition both to the monks of Canterbury and to the king. Langton was one of the most illustrious men of his age for learning; and continued archbishop 22 years, dying in 1228. A catalogue of his books is given by Bale and Tanner.

¹ **LANGUAGE**, in the proper sense of the word, signifies the expression of our ideas and their various relations by certain articulate sounds, which are used as the signs of those ideas and relations. By articulate sounds are meant those modulations of simple voice, or of sound emitted from the thorax, which are formed by means of the mouth and its several organs,—the teeth, the tongue, the lips, and the palate. In a more general sense the word *language* is sometimes used to denote all sounds by which animals of any kind express their particular feelings and impulses in a manner that is intelligible to their own species.

Nature has endowed every animal with powers sufficient to make known all those of its sensations and desires, with which it is necessary, for the preservation of the individual or the continuance of the kind, that others of the same species should be acquainted. For this purpose, the organs of all vocal animals are so formed, as, upon any particular impulse, to utter sounds, of which those of the same species instinctively know the meaning. The summons of the hen is instantly obeyed by the whole brood of chickens; and in many others of the irrational tribes a similar mode of communication may be observed between the parents and the offspring, and between one animal and its customary associate. But it is not among animals of the same species only that these instinctive sounds are mutually understood. It is

² Language, in what respects different from the instinctive cries of animals.

as necessary for animals to know the voices of their enemies as the voices of their friends; and the roaring of the lion is a sound of which, previous to all experience, every beast of the forest is naturally afraid. Between these animal voices and the language of men there is however very little analogy. Human language is capable of expressing ideas and notions, which there is every reason to believe that the brutal mind cannot conceive. "Speech (says Aristotle) is made to indicate what is expedient and what inexpedient, and in consequence of this what is just and unjust. It is therefore given to men; because it is peculiar to them that of good and evil, just and unjust, they only (with respect to other animals) possess a sense or feeling." The voices of brutes seem intended by nature to express, not distinct ideas or moral modes, but only such feelings as it is for the good of the species that they should have the power of making known; and in this, as in all other respects, these voices are analogous; not to our speaking, but to our weeping,

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laughing, singing, groaning, screaming, and other natural and audible expressions of appetite and passion.

—Another difference between the language of men and the voices of brute animals consists in articulation, by which the former may be resolved into distinct elementary sounds or syllables; whereas the latter, being for the most part unarticulated, is not capable of such a resolution. Hence Homer and Hesiod characterize man by the epithet *μειροψ*, or "voice-dividing," as denoting a power peculiar to the human species: for though there are a few birds† which utter sounds that may be divided into syllables, yet each of these birds utters but one such sound, which seems to be employed rather as notes of natural music than for the purpose of giving information to others; for when the bird is agitated, it utters cries which are very different, and have no articulation.—A third difference between

Language.

† The parrot, cuckoo, and East-India bird called cockatoo, &c.

3 Not from nature or instinct, but

the language of men and the significant cries of brute animals, is, that the former is from art and the latter from nature. Every human language is learned by imitation, and is intelligible only to those who either inhabit the country where it is vernacular, or have been taught it by a master or by books: but the voices in question are not learned by imitation; and being wholly instinctive, they are intelligible to all the animals of that species by which they are uttered, though brought together from the most distant countries on earth. That a dog, which had never heard another bark, would notwithstanding bark himself, and that the barkings or yelps of a Lapland dog would be instinctively understood by the dogs of Spain, Calabria, or any other country, are facts which admit not of doubt: but there is no reason to imagine that a man who had never heard any language spoken would himself speak; and it is well known that the language spoken in one country is unintelligible to the natives of another country where a different language is spoken. Herodotus indeed records a fact which, could it be depended upon, would tend to overturn this reasoning, as it infers a natural relation between ideas and certain articulate sounds. He tells us, that Psammetichus king of Egypt, in order to discover which was the oldest language, caused two children, newly born of poor parents, to be brought up by a shepherd among his cattle, with a strict injunction that they should never hear a human voice; and that at the end of two years the children pronounced at the same time the word *βεικκος*, which in the Phrygian language signified *bread*. Either this is one of the many fables which that credulous historian collected among the Egyptians, or the conduct and reasoning of Psammetichus were very absurd; for it is added, that from this circumstance he inferred that the Phrygians were the most ancient people, and that they spoke the primitive language. The only rational purpose for which such an experiment could be instituted, would be to discover, not which is the oldest or the latest language, but whether there be such a thing as a language of nature or instinct: but in such a language it is obvious that there could be no word to denote *bread*, because in what is called the state of nature bread is unknown. The experiment of Psammetichus was probably never made; but in the woods of different countries solitary savages have at different times been caught, who, though they apparently possessed all the sagacity which is natural to man, and though

Language. their organs both of hearing and of speech were perfect, never used articulate sounds as signs of sensations or ideas. They uttered indeed the inarticulate cries which are instinctively expressive of pleasure and pain, of joy and sorrow, more distinctly and forcibly than men civilized; but with respect to the very rudiments of language, they were what Horace represents all mankind to have been originally, — *mutum et turpe pecus*. Indeed it seems to be obvious, that were there any instinctive language, the first words uttered by all children would be the same; and that every child, whether born in the desert or in society, would understand the language of every other child however educated or however neglected. Nay more, we may venture to affirm, that such a language, though its general use might, in society, be superseded by the prevailing dialect of art, could never be wholly lost; and that no man of one country would find it difficult, far less impossible, to communicate the knowledge of his natural and most pressing wants to the men of any other country, whether barbarous or civilized. The exercise of cultivated reason, and the arts of civil life, have indeed eradicated many of our original instincts, but they have not eradicated them all: (see INSTINCT.) There are external indications of the internal feelings and desires, which appear in the most polished society, and which are confessedly instinctive. The passions, emotions, sensations, and appetites, are naturally expressed in the countenance by characters which the savage and the courtier can read with equal readiness. The look serene, the smoothed brow, the dimpled smile, and the glistening eye, denote equanimity and good will in terms which no man mistakes. The contracted brow, the glaring eye, the sullen gloom, and the threatening air, denote rage, indignation, and defiance, as plainly and forcibly as revilings or imprecations. To teach men to disguise these instinctive indications of their temper, and

"To carry smiles and sunshine in their face,
"When discontent sits heavy at their heart,"

constitutes a great part of modern and refined education. Yet in spite of every effort of the utmost skill, and of every motive resulting from interest, the most consummate hypocrite, or the most backneyed politician, is not always able to prevent his real disposition from becoming apparent in his countenance. He may indeed, by long practice, have acquired a very great command both over his temper and over the instinctive signs of it; but at times nature will predominate over art, and a sudden and violent passion will flash in his face, so as to be visible to the eye of every beholder. If these observations be just, and we flatter ourselves with the belief that no man will call them in question, it seems to follow, that, if mankind were prompted by instinct to use articulate sounds as indications of their passions, affections, sensations, and ideas, the language of nature could never be wholly forgotten, and that it would sometimes predominate over the language of art. Groans, sighs, and some inarticulate lively sounds, are naturally expressive of pain and pleasure, and equally intelligible to all man-

kind. The occasional use of these no art can wholly banish; and if there were articulate sounds naturally expressive of the same feelings, it is not conceivable that art or education could banish the use of them, merely because by the organs of the mouth they are broken into parts and resolvable into syllables.

It being thus evident that there is no instinctive articulated language, it has become an inquiry of some importance, how mankind were first induced to fabricate articulate sounds, and to employ them for the purpose of communicating their thoughts. Children learn to speak by insensible imitation; and when advanced some years in life, they study foreign languages under proper instructors: but the first men had no speakers to imitate, and no formed language to study; by what means then did they learn to speak? On this question only two opinions can possibly be formed. ⁴ Either language must have been originally revealed from heaven, or it must be the fruit of human industry. The greater part of Jews and Christians, and even some of the wisest pagans, have embraced the former opinion; which seems to be supported by the authority of Moses, who represents the Supreme Being as teaching our first parents the names of animals. The latter opinion is held by Diodorus Siculus, Lucretius, Horace, and many other Greek and Roman writers, who consider language as one of the arts invented by man. The first men, say they, lived for some time in woods and caves after the manner of beasts, uttering only confused and indistinct noises; till, associating for mutual assistance, they came by degrees to use articulate sounds mutually agreed upon for the arbitrary signs or marks of those ideas in the mind of the speaker which he wanted to communicate to the hearer. This opinion sprung from the atomic cosmogony which was framed by Mochus the Phenician, and afterwards improved by Democritus and Epicurus; and though it is part of a system in which the first men are represented as having grown out of the earth like trees and other vegetables, it has been adopted by several modern writers (A) of high rank in the republic of letters, and is certainly in itself worthy of examination.

The most learned, and on every account the most respectable author who now supports this opinion, candidly acknowledges, that if language was invented, it was of very difficult invention, and far beyond the reach of the grossest savages. Accordingly he holds, that though men were originally solitary animals, and had no natural propensity to the social life; yet before language could be invented they must have been associated for ages, and have carried on of concert some common work. Nay, he is decidedly of opinion, that before the invention of an art so difficult as language, men must not only have herded together, but have also formed some kind of civil polity, have existed in that political state a very long time, and have acquired such powers of abstraction as to be able to form general ideas. (See LOGIC and METAPHYSICS). But it is obvious, that men could not have instituted civil polity, or have carried on of concert any common work, without communicating their designs to each other: and there are four ways by which the author thinks that this could have

(A) Father Simon, Voltaire, L'Abbe Condilliac, Dr Smith, and the author of *the Origin and Progress of Language*.

Language. have been done before the invention of speech; viz. 1st, *inarticulate cries*, expressive of sentiments and passions; 2d, *gestures*, and *the expression of countenance*; 3d, *imitative sounds* expressive of audible things; and, 4th, *painting*, by which visible objects may be represented. Of these four ways of communication it is plain that only two have any connection with language, viz. *inarticulate cries* and *imitative sounds*; and of these the author abandons the latter as having contributed nothing to the invention of articulation, though he thinks it may have helped to advance its progress. "I am disposed (says he) to believe, that the framing of words with an analogy to the sound of the things expressed by them belongs rather to languages of art than to the first languages spoken by rude and barbarous nations." It is therefore *inarticulate cries* only that must have given rise to the formation of language. Such cries are used by all animals who have any use of voice to express their wants; and the fact is, that all barbarous nations have cries expressing different things, such as joy, grief, terror, surprise, and the like. These, together with gestures and expression of the countenance, were undoubtedly the methods of communication first used by men: and we have but to suppose (says our author) a great number of our species carrying on some common business, and conversing together by signs and cries; and we have men just in a state proper for the invention of language. For if we suppose their numbers to increase, their wants would increase also; and then these two methods of communication would become too confined for that larger sphere of life which their wants would make necessary. The only thing then that remained to be done was to give a greater variety to the instinctive cries; and as the natural progress is from what is easy to what is more difficult, the first variation would be merely by tones from low to high, and from grave to acute. But this variety could not answer all the purposes of speech in society; and being advanced so far, it was natural that an animal so sagacious as man should go on farther, and come at last to the only other variation remaining, namely articulation. The first articulation would be very simple, the voice being broken and distinguished only by a few vowels and consonants. And as all natural cries are from the throat and larynx, with little or no operation of the organs of the mouth, it is natural to suppose, that the first languages were for the greater part spoken from the throat; that what consonants were used to vary the cries, were mostly guttural; and that the organs of the mouth would at first be very little employed. From this account of the origin of language it appears, that the first sounds articulated were the natural cries by which men signified their wants and desires to one another, such as calling one another for certain purposes, and other such things as were most necessary for carrying on any joint work: then in process of time other cries would be articulated, to signify, that such and such actions had been performed or were performing, or that such and such events had happened relative to the common business. Then names would be invented of such objects as they were conversant with; but as we cannot suppose sa-

vages to be deep in abstraction or skilful in the art of Language. arranging things according to their *genera* and *species*, all things however similar, except perhaps the individuals of the lowest species, would be expressed by different words not related to each other either by derivation or composition. Thus would language grow by degrees; and as it grew, it would be more and more broken and articulated by consonants; but still the words would retain a great deal of their original nature of animal cries. And thus things would go on, words unrelated still multiplying, till at last the language would become too cumbersome for use; and then art would be obliged to interpose, and form a language upon a few radical words, according to the rules and method of etymology.

Those (B) who think that language was originally revealed from heaven, consider this account of its human invention as a series of mere suppositions hanging loosely together, and the whole suspended from no fixed principle. The opinions of Diodorus, Vitruvius, Horace, Lucretius, and Cicero, which are frequently quoted in its support, are in their estimation of no greater authority than the opinions of other men; for as language was formed and brought to a great degree of perfection long before the era of any historian with whom we are acquainted, the antiquity of the Greek and Roman writers, who are comparatively of yesterday, gives them no advantage in this inquiry over the philosophers of France and England. Aristotle has defined man to be ζῷον λόγον ἔχον: and the definition is certainly so far just, that man is much more remarkable for imitation than invention; and therefore, say the reasoners on this side of the question, had the human race been originally *mutum et turpe pecus*, they would have continued so to the end of time, unless they had been taught to speak by some superior intelligence. That the first men sprung from the earth like vegetables, no modern philosopher has ventured to assert; nor does there any where appear sufficient evidence that men were originally in the state of savages. The oldest book extant contains the only rational cosmogony known to the ancient nations; and that book represents the first human inhabitants of this earth, not only as reasoning and speaking animals, but also as in a state of high perfection and happiness, of which they were deprived for disobedience to their Creator. Moses, setting aside his claim to inspiration, deserves, from the consistence of his narrative, at least as much credit as Mochus, or Democritus, or Epicurus; and from his prior antiquity, if antiquity could on this subject have any weight, he would deserve more, as having lived nearer to the period of which they all write. But the question respecting the origin of language may be decided without resting in authority of any kind, merely by considering the nature of speech and the mental and corporeal powers of man. Those who maintain it to be of human invention, suppose men at first to have been solitary animals, afterwards to have herded together without government or subordination, then to have formed political societies, and by their own exertions to have advanced from the grossest ignorance to the refinements of science. But, say the reasoners

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whose

(B) Warburton, Delaney, Johnson, Beattie, Blair, and Dr Stanhope Smith of New Jersey, &c.

Language. whose cause we are now pleading, this is a supposition contrary to all history and all experience. There is not upon record a single instance well authenticated of a people emerging by their own efforts from barbarism to civilization. There have indeed been many nations raised from the state of savages; but it is known that they were polished, not by their own repeated exertions, but by the influence of individuals or colonies from nations more enlightened than themselves. The original savages of Greece were tamed by the Pelasgi, a foreign tribe; and were afterwards further polished by Orpheus, Cecrops, Cadmus, &c. who derived their knowledge from Egypt and the East. The ancient Romans, a ferocious and motley crew, received the blessings of law and religion from a succession of foreign kings; and the conquests of Rome at a later period contributed to civilize the rest of Europe. In America, the only two nations which at the invasion of the Spaniards could be said to have advanced a single step from barbarism, were indebted for their superiority over the other tribes, not to the gradual and unassisted progress of the human mind, but to the wise institutions of foreign legislators.

This is not the proper place for tracing the progress of man from the savage state to that of political society (See *SAVAGE State*); but experience teaches us, that in every art it is much easier to improve than to invent. The human mind, when put into the proper track, is indeed capable of making great advances in arts and sciences; but if any credit be due to the records of history, it has not, in a people sunk in ignorance and barbarity, sufficient vigour to discover that track, or to conceive a state different from the present. If the rudest inhabitants of America and other countries have continued, as there is every reason to believe they have continued, for ages in the same unvaried state of barbarism; how is it imaginable that people so much ruder than they, as to be ignorant of all language, should think of inventing an art so difficult as that of speech, or even to frame a conception of the thing? In building, fishing, hunting, navigating, &c. they might imitate the instinctive arts of other animals; but there is no other animal that expresses its sensations and affections by arbitrary articulate sounds.—It is said, that before language could be invented, mankind must have existed for ages in large political societies, and have carried on of concert some common work: but if inarticulate cries, and the natural visible signs of the passions and affections, were modes of communication sufficiently accurate to keep a large society together for ages, and to direct its members in the execution of some common work, what could be their inducement to the invention of an art so useless and difficult as that of language? Let us however suppose, say the advocates for the cause which we are now supporting, that different nations of savages set about inventing an art of communicating their thoughts, which experience had taught them was not absolutely necessary; how came they all, without exception, to think of the one art of articulating the voice for this purpose? Inarticulate cries, out of which language is fabricated, have indeed an instinctive connection with our passions and affections; but there are gestures and expressions of countenance with which our passions and affections are in the same manner connected. If the natural

cries of passion could be so modified and enlarged as Language. to be capable of communicating to the hearer every idea in the mind of the speaker, it is certain that the natural gestures could be so modified as to answer the very same purpose (see *PANTOMIME*); and it is strange that among the several nations who invented languages, not one should have stumbled upon fabricating visible signs of their ideas, but that all should have agreed to denote them by articulated sounds. Every nation whose language is narrow and rude supplies its defects by violent gesticulation; and therefore, as much less genius is exerted in the improvement of any art than was requisite for its first invention, it is natural to suppose, that, had men been left to devise for themselves a method of communicating their thoughts, they would not have attempted any other than that by which they now improve the language transmitted by their fathers. It is vain to urge that articulate sounds are fitter for the purpose of communicating thought than visible gesticulation: for though this may be true, it is a truth which could hardly occur to savages, who had never experienced the fitness of either; and if, to counterbalance the superior fitness of articulation, its extreme difficulty be taken into view, it must appear little less than miraculous that every savage tribe should think of it rather than the easier method of artificial gesticulation. Savages, it is well known, are remarkable for their indolence, and for always preferring ease to utility; but their modes of life give such a pliancy to their bodies, that they could with very little trouble bend their limbs and members into any positions agreed upon as the signs of ideas. This is so far from being the case with respect to the organs of articulation, that it is with extreme difficulty, if at all, that a man advanced in life can be taught to articulate any sound which he has not been accustomed to hear. No foreigner who comes to England after the age of thirty, ever pronounces the language tolerably well; an Englishman of that age can hardly be taught to utter the guttural sound which a Scotchman gives to the Greek χ , or even the French sound of the vowel u : and of the solitary savages who have been caught in different forests, we know not that there has been one who, after the age of manhood, learned to articulate any language so as to make himself readily understood. The present age has indeed furnished many instances of deaf persons being taught to speak intelligibly by skilful masters moulding the organs of the mouth into the positions proper for articulating the voice; but who was to perform this task among the inventors of language, when all mankind were equally ignorant of the means by which articulation is effected? In a word, daily experience informs us, that men who have not learned to articulate in their childhood, never afterwards acquire the faculty of speech but by such helps as savages cannot obtain; and therefore, if speech was invented at all, it must have been either by children who were incapable of invention, or by men who were incapable of speech. A thousand, nay a million, of children could not think of inventing a language. While the organs are pliable, there is not understanding enough to frame the conception of a language; and by the time that there is understanding, the organs are become too stiff for the task. And therefore, say the advocates for the divine origin of language, reason as well

Language well as history intimates, that mankind in all ages must have been speaking animals; the young having constantly acquired this art by imitating those who were elder; and we may warrantably conclude, that our first parents received it by immediate inspiration.

To this account of the origin of language an objection readily offers itself. If the first language was communicated by inspiration, it must have been perfect, and held in reverence by those who spake it, *i. e.* by all mankind. But a vast variety of languages have prevailed in the world; and some of these which remain are known to be very imperfect, whilst there is reason to believe that many others are lost. If different languages were originally invented by different nations, all this would naturally follow from the mixture of these nations; but what could induce men possessed of one perfect language of divine original, to forsake it for barbarous jargons of their own invention, and in every respect inferior to that with which their forefathers or themselves had been inspired?

In what circumstances the most perfect and copious language must become narrow and rude.

In answer to this objection, it is said, that nothing was given by inspiration but the faculty of speech and the elements of language; for when once men had language, it is easy to conceive how they might have modified it by their natural powers, as thousands can improve what they could not invent. The first language, if given by inspiration, must in its principles have had all the perfection of which language is susceptible; but from the nature of things it could not possibly be very copious. The words of language are either proper names or the signs of ideas and relations; but it cannot be supposed that the All-wise Instructor would load the memories of men with words to denote things then unknown, or with the signs of ideas which they had not then acquired. It was sufficient that a foundation was laid of such a nature as would support the largest superstructure which they might ever after have occasion to raise upon it, and that they were taught the method of building by composition and derivation. This would long preserve the language radically the same, though it could not prevent the introduction of different dialects in the different countries over which men spread themselves. In whatever region we suppose the human race to have been originally placed, the increase of their numbers would in process of time either disperse them into different nations, or extend the one nation to a vast distance on all sides from what we may call the seat of government. In either case they would every where meet with new objects, which would occasion the invention of new names; and as the difference of climate and other natural causes would compel those who removed eastward or northward to adopt modes of life in many respects different from the modes of those who travelled towards the west or the south, a vast number of words would in one country be fabricated to denote complex conceptions, which must necessarily be unintelligible to the body of the people inhabiting countries where those conceptions had never been formed. Thus would various dialects be unavoidably introduced into the original language, even whilst all mankind remained in one society and under one government. But after separate and independent societies were formed, these variations would become more numerous, and the several dialects would deviate farther and farther from each other, as well as from the idiom and genius of

the parent tongue, in proportion to the distance of the tribes by whom they were spoken. If we suppose a few people either to have been banished together from the society of their brethren, or to have wandered of their own accord to a distance, from which through trackless forests they could not return (and such emigrations have often taken place), it is easy to see how the most copious language must in their mouths have soon become narrow, and how the offspring of inspiration must have in time become so deformed as hardly to retain a feature of the ancestor whence it originally sprung. Men do not long retain a practical skill in those arts which they never exercise; and there are abundance of facts to prove, that a single man cast upon a desert island, and having to provide the necessaries of life by his own ingenuity, would soon lose the art of speaking with fluency his mother-tongue. A small number of men cast away together, would indeed retain that art somewhat longer; but in a space of time not very long, it would in a great measure be lost by them or their posterity. In this state of banishment, as their time would be almost wholly occupied in hunting, fishing, and other means within their reach to support a wretched existence, they would have very little leisure, and perhaps less desire, to preserve by conversation the remembrance of that ease and those comforts of which they now found themselves for ever deprived; and they would of course soon forget all the words which in their native language had been used to denote the accommodations and elegancies of polished life. This at least seems to be certain, that they would not attempt to teach their children a part of language which in their circumstances could be of no use to them, and of which it would be impossible to make them comprehend the meaning; for where there are no ideas, the signs of ideas cannot be made intelligible. From such colonies as this dispersed over the earth, it is probable that all those nations of savages have arisen, which have induced so many philosophers to imagine that the state of the savage was the original state of man; and if so, we see that from the language of inspiration must have unavoidably sprung a number of different dialects all extremely rude and narrow, and retaining nothing of the parent tongue, except perhaps the names of the most conspicuous objects of nature, and of those wants and enjoyments which are inseparable from humanity. The savage state has no artificial wants, and furnishes few ideas that require terms to express them. The habits of solitude and silence incline a savage rarely to speak; and when he speaks, he uses the same terms to denote different ideas. Speech therefore, in this rude condition of men, must be extremely narrow and extremely various. Every new region, and every new climate, suggests different ideas, and creates different wants, which must be expressed either by terms entirely new or by old terms used with a new signification. Hence must originate great diversity, even in the first elements of speech, among all savage nations, the words retained of the original language being used in various senses, and pronounced, as we may believe, with various accents. When any of those savage tribes emerged from their barbarism, whether by their own efforts or by the aid of people more enlightened than themselves, it is obvious that the improvement and copiousness of their language would

8
Hence the variety of tongues which have prevailed in the world.

Language. would keep pace with their own progress in knowledge and in the arts of civil life; but in the infinite multitude of words which civilization and refinement add to language, it would be little less than miraculous were any two nations to agree upon the same sounds to represent the same ideas. Superior refinement, indeed, may induce imitation, conquests may impose a language, and extension of empires may melt down different nations and different dialects into one mass; but independent tribes naturally give rise to diversity of tongues, nor does it seem possible that they should retain more of the original language than the words expressive of those objects with which all men are at all times equally concerned.

The variety of tongues, therefore, the copiousness of some, and the narrowness of others, furnish no good objection to the divine origin of language in general; for whether language was at first revealed from heaven, or in a course of ages invented by men, a multitude of dialects would inevitably arise as soon as the human race was separated into a number of distinct and independent nations.—We pretend not to decide for our readers in a question of this nature: we have given the best arguments on both sides which we could either devise or find in the writings of others: and if it be seen, as we doubt not it will, that our own judgment leans to the side of revelation, let it not be hastily condemned by those whose knowledge of languages extends no farther than to Greece and Rome, and France and England; for if they will carry their philological inquiries to the east, they may perhaps be able to trace the remains of one original language through a great part of the globe at this day (c).

Language, whatever was its origin, must be subject to perpetual changes from its very nature, as well as

from that variety of incidents which affect all sub-**Language**lunary things; and those changes must always correspond with the change of circumstances in the people by whom the language is spoken. When any particular set of ideas becomes prevalent among any society of men, words must be adopted to express them; and from these the language must assume its character. Hence the language of a brave and martial people is bold and nervous, although perhaps rude and uncultivated; while the languages of those nations in which luxury and effeminacy prevail, are flowing and harmonious, but devoid of force and energy of expression.

But although it may be considered as a general rule, that the language of any people is a very exact index of the state of their minds, yet it admits of some particular exceptions. For as man is naturally an imitative animal, and in matters of this kind never has recourse to invention but through necessity, colonies planted by any nation, at whatever distance from the mother-country, always retain the same general sounds and *idiom* of language with those from whom they are separated. In process of time, however, the colonists and the people of the mother-country, by living under different climates, by being engaged in different occupations, and by adopting, of course, different modes of life, may lose all knowledge of one another, assume different national characters, and form each a distinct language to themselves, totally different in genius and style, though agreeing with one another in the fundamental sounds and general idiom. If, therefore, this particular idiom, formed before their separation, happen to be more peculiarly adapted to the genius of the mother-country than of the colonies, these will labour under an inconvenience on this account, which they may never be wholly able to overcome; and this

inconvenience

(c) Numberless instances of this might be given, but our limits will permit us to produce only a very few. In the *Shanscrit*, or ancient language of the *Gentoos*, our signifies a *day*: (See *Halhed's preface to the code of Gento laws*.) In other eastern languages, the same word was used to denote both *light* and *fire*. Thus in the *Chaldee*, UR is *fire*; in the *Egyptian*, OR is the *sun* or *light*, (*Plut. de Osir. et Isid.*): In the *Hebrew*, AUR is *light*: in the *Greek*, *anp* is the *air*, often *light*: in *Latin*, AURA is the *air*, from the *Eolic Greek*; and in *Irish* it is AEAR. From the very same original we have the *Greek* word *πυρ*, and the *English* *fire*.—In *Hebrew*, OR signifies to *raise*, *lift up one's self*, or *be raised*: hence plainly are derived the *Greek* *ορω*, to *raise*, *ex-cite*, and the *Latin* *ORIO* to *arise*; whence *ORIENS* the *east*, and *Eng. orient, oriental*; also *Lat. origo*, and *Eng. origin, originate*, &c.—The word *KHUNT* in the *Shanscrit* dialect, signifies a *small territory*, which is retained in *Kuvos*, *Kent*, *Canton*, *Cantabria*. The word *KHAN*, *KIN*, *CEAN*, *GAN*, *GEN*, *GIN*, is of the same kind, and pervades Asia and Europe from the *Ganges* to the *Garrone*. The word *LIGHT* *English*, *LUCHT* *Flemish*, *LUX* *Roman*, and *λυκος* *Greek*, has been traced to *Egypt*. *ARETZ*, *AREK*, *ERECH*, *HERTHA*, *EARTH*, and *ERDE*, are all one word from *Palestine* and *Chaldee* to *Britain* and *Germany*.—The *Chaldeans* turned the *Hebrew* word *SHUR* or *SHOR*, which signifies an *ox*, into *THOR*, as likewise did the *Phenicians* (See *Plut. Vit. Syll.*); hence the *Greek* *ταυρος*, the *Latin* *taurus*, the *French* *taureau*, and the *Italian* and *Spanish* *toro*. The *Hebrew* word *BIT* or *BEITH*, which signifies *cavity*, *capacity*, the *concave* or *inside* of any place, has spread itself far and wide, still retaining nearly the original signification; in the *Persian* language it is *BAD*, *BED*, *BHAD*, and signifies a *house* or *abode*. In all the dialects of the *Gothic* tongue, *BODE* signifies the same thing; hence the *English* *abide*, *abode*, *booth*, *boat*, and the *French* *batteau*. In all these instances there is a striking resemblance in sound as well as in sense between the derived and the primitive words; but this is not always the case, even when of the legitimacy of the derivation no doubt can be entertained. It has been shown (see *Boswell's Life of Johnson*), that the *French* *jour*, a *day*, is derived from the *Latin* *DIES*; but it may be certainly traced from a higher source. In many of the oriental dialects, *DI*, *bright*, is a name of the *sun*; hence the *Greek* *Δις*, *Jupiter*, and the *Latin* *DIES*, a *day*. From *DIES* comes *DIURNUS*; in the pronunciation of which, either by the inaccuracy of the speaker or of the hearer, *diu* is readily confounded with *giu*; then of the ablative of this adjective, corruptly pronounced *giurno*, the *Italians* make a substantive *GIORNO*, which by the *French* is readily contracted into *GIOUR* or *JOUR*. From the same root *DI*, comes *Διός*, *α*, *ο*, the *Eolic* *Διός*, the *Latin* *divus*, and the *Celtic* *DIJA*, *God*.

Language. inconvenience must prevent their language from ever attaining to that degree of perfection to which, by the genius of the people, it might otherwise have been carried. Thus various languages may have been formed out of one parent tongue; and thus that happy concurrence of circumstances which has raised some languages to a high degree of perfection, may be easily accounted for, while many ineffectual efforts have been made to raise other languages to the same degree of excellence.

11
What is meant by the *idiom*, and what by the *genius*, of a language.

12
Two idioms among the languages esteemed in Europe.

13
The analogous and

As the knowledge of languages constitutes a great part of erudition, as their beauty and deformities furnish employment to taste, and as these depend much upon the idioms of the different tongues, we shall proceed to make a few remarks upon the advantages and defects of some of those idioms of language with which we are best acquainted.—As the words *IDIOM* and *GENIUS* of a language are often confounded, it will be necessary to inform the reader, that by *IDIOM* we would here be understood to mean *that general mode of arranging words into sentences which prevails in any particular language*; and by the *GENIUS* of a language, we mean to express *the particular set of ideas which the words of any language, either from their formation or multiplicity, are most naturally apt to excite in the mind of any one who hears it properly uttered*. Thus, although the *English*, *French*, *Italian*, and *Spanish* languages nearly agree in the same general *IDIOM*, yet the particular *GENIUS* of each is remarkably different: The *English* is naturally bold, nervous, and strongly articulated; the *French* is weaker, and more flowing; the *Italian* more soothing and harmonious; and the *Spanish* more grave, sonorous, and stately. Now, when we examine the several languages which have been most esteemed in Europe, we find that there are only two *IDIOMS* among them which are essentially distinguished from one another; and all those languages are divided between these two idioms, following sometimes the one and sometimes the other, either wholly or in part. The languages which may be said to adhere to the first *IDIOM*, are those which in their construction follow the order of nature; that is, express their ideas in the natural order in which they occur to the mind; the subject which occasions the action appearing first; then the action, accompanied with its several modifications; and, last of all, the object to which it has reference.—These may properly be called *ANALOGOUS* languages; and of this kind are the *English*, *French*, and most of the modern languages in Europe.—The languages which may be referred to the other *IDIOM*, are those which follow no other order in their construction than what the taste or fancy of the composer may suggest; sometimes making the object, sometimes the action, and sometimes the modification of the action, to precede or follow the other parts. The confusion which this might occasion, is avoided by the particular manner of *inflecting* their words, by which they are made to refer to the others with which they ought to be connected, in whatever part of the sentence they occur, the mind being left at liberty to connect the several parts with one another after the whole sentence is concluded. And as the words may be here transposed at pleasure, those languages may be called *TRANSPOSITIVE* languages. To this class we must, in an especial manner, refer the *Latin* and *Greek* lan-

guages.—As each of these *IDIOMS* has several advantages and defects peculiar to itself, we shall endeavour to point out the most considerable of them, in order to ascertain with greater precision the particular character and excellence of some of those languages now principally spoken or studied in Europe.

The partiality which our forefathers, at the revival of letters in Europe, naturally entertained for the Greek and Roman languages, made them look upon every distinguishing peculiarity belonging to them as one of the many causes of the amazing superiority which those languages evidently enjoyed above every other at that time spoken in Europe.—This blind deference still continues to be paid to them, as our minds are early prepossessed with these ideas, and as we are taught in our earliest infancy to believe, that to entertain the least idea of our own language being equal to the Greek or Latin in any particular whatever, would be a certain mark of ignorance or want of taste.—Their rights, therefore, like those of the church in former ages, remain still to be examined; and we, without exerting our reason to discover truth from falsehood, tamely sit down satisfied with the idea of their undoubted pre-eminence in every respect. But if we look around us for a moment, and observe the many excellent productions which are to be met with in almost every language of Europe, we must be satisfied, that *even these* are now possessed of some powers which might afford at least a presumption, that, if they were cultivated with a proper degree of attention, they might, in some respects, be made to rival, if not to excel, those beautiful and justly admired remains of antiquity. Without endeavouring to derogate from their merit, let us, with the cool eye of philosophic reasoning, endeavour to bring before the sacred tribunal of Truth some of those opinions which have been most generally received upon this subject, and rest the determination of the cause on her impartial decision.

The learned reader well knows, that the several changes which take place in the arrangement of the words in every *TRANSPOSITIVE* language, could not be admitted without occasioning great confusion, unless certain classes of words were endowed with particular variations, by means of which they might be made to refer to the other words with which they ought naturally to be connected. From this cause proceeds the necessity of several variations of *verbs*, *nouns*, and *adjectives*; which are not in the least essential or necessary in the *ANALOGOUS* languages, as we have pretty fully explained under the article *GRAMMAR*, to which we refer for satisfaction on this head. We shall in this place consider, whether these variations are an advantage or a disadvantage to language.

As it is generally supposed, that every language whose verbs admit of *inflection*, is on that account much more perfect than one where they are varied by *auxiliaries*; we shall, in the first place, examine this with some degree of attention; and that what is said on this head may be the more intelligible, we shall give examples from the Latin and English languages. We make choice of these languages, because the Latin is more purely *transpositive* than the Greek, and the English admits of less *inflection* than any other language that we are acquainted with.

If any preference be due to a language from the

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The transpositive languages compared with respect to

Language. one or the other method of *conjugating* verbs, it must in a great measure be owing to one or more of these three causes:—Either it must admit of a greater variety of sounds, and consequently more room for harmonious diversity of tones in the language:—or a greater freedom of expression is allowed in uttering any simple idea, by the one admitting of a greater variety in the arrangement of the words which are necessary to express that idea than the other does:—or, lastly, a greater precision and accuracy in fixing the meaning of the person who uses the language, arise from the use of one of these forms, than from the use of the other: for, as every other circumstance which may serve to give a diversity to language, such as the general and most prevalent sounds, the frequent repetition of any one particular letter, and a variety of other circumstances of that nature, which may serve to debase a particular language, are not influenced in the least by the different methods of varying the verbs, they cannot be here considered. We shall therefore proceed to make a comparison of the advantages or disadvantages which may accrue to a language by inflecting its verbs with regard to each of these particulars,—variety of sound, variety of arrangement, and accuracy of meaning.

¹⁵ Diversity of sounds, variety of expressions, and precision of meaning. The *first* particular that we have to examine is, Whether the one method of expressing the variations of a verb admits of a greater variety of sounds? In this respect the *Latin* seems, at first view, to have a great advantage over the *English*: for the words *amo, amabam, amaveram, amavero, amem, &c.* seem to be more different from one another than the English translations of these, *I love, I did love, I had loved, I shall have loved, I may love, &c.*; for although the syllable *AM* is repeated in every one of the first, yet as the last syllable usually strikes the ear with greater force, and leaves a greater impression than the first, it is very probable that many will think the frequent repetition of the word *LOVE* in the last instance, more striking to the ear than the repetition of *am* in the former. We will therefore allow this its full weight, and grant that there is as great, or even a greater difference between the sounds of the different *tenses* of a Latin verb, than there is between the words that are equivalent to them in *English*. But as we here consider the variety of sounds of the language in general, before any just conclusion can be drawn, we must not only compare the different parts of the same verb, but also compare the different verbs with one another in each of these languages. And here, at first view, we perceive a most striking distinction in favour of the *analogous* language over the *inflected*: for as it would be impossible to form a particular set of inflections different from one another for each particular verb, all those languages which have adopted this method have been obliged to reduce their verbs into a small number of classes; all the words of each of which classes, commonly called *conjugations*, have the several variations of the *modes, tenses, and persons*, expressed exactly in the same manner, which must of necessity introduce a similarity of sounds into the language in general, much greater than where every particular verb always retains its own distinguishing sound. To be convinced of this, we need only repeat any number of verbs in Latin and English, and observe on which side the preference with respect to variety of sounds must fall.

Nº 174.

Pono,	<i>I put.</i>	Moveo,	<i>I move.</i>
Dono,	<i>I give.</i>	Doleo,	<i>I ail.</i>
Cano,	<i>I sing.</i>	Lugeo,	<i>I mourn.</i>
Sono,	<i>I sound.</i>	Obeo,	<i>I die.</i>
Orno,	<i>I adorn.</i>	Gaudeo,	<i>I rejoice.</i>
Pugno,	<i>I fight.</i>	Incipio,	<i>I begin.</i>
Lego,	<i>I read.</i>	Facio,	<i>I make.</i>
Scribo,	<i>I write.</i>	Fodio,	<i>I dig.</i>
Puto,	<i>I think.</i>	Rideo,	<i>I laugh.</i>
Vivo,	<i>I live.</i>	Impleo,	<i>I fill.</i>
Ambulo,	<i>I walk.</i>	Abstineo,	<i>I forbear.</i>

The similarity of sounds is here so obvious in the Latin, as to be perceived at the first glance; nor can we be surprised to find it so, when we consider that all their regular verbs, amounting to 4000 or upwards, must be reduced to four conjugations, and even these differing but little from one another, which must of necessity produce the sameness of sounds which we here perceive; whereas, every language that follows the natural order, like the *English*, instead of this small number of uniform terminations, have almost as many distinct sounds as original verbs in their language.

But if, instead of the present of the indicative mood, we should take almost any other tense of the Latin verb, the similarity of sounds would be still more perceptible, as many of these tenses have the same termination in all the four conjugations, particularly in the imperfect of the indicative, as below.

Pone-bam;	<i>I did put,</i>	<i>I put.</i>
Dona-bam;	<i>I did give,</i>	<i>I gave.</i>
Cane-bam;	<i>I did sing,</i>	<i>I sung.</i>
Sona-bam;	<i>I did sound,</i>	<i>I sounded.</i>
Orna-bam;	<i>I did adorn,</i>	<i>I adorned.</i>
Pugna-bam;	<i>I did fight,</i>	<i>I fought.</i>
Lege-bam;	<i>I did read,</i>	<i>I read.</i>
Scribe-bam;	<i>I did write,</i>	<i>I wrote.</i>
Put-a-bam;	<i>I did think,</i>	<i>I thought.</i>
Vive-bam;	<i>I did live,</i>	<i>I lived.</i>
Ambula-bam;	<i>I did walk,</i>	<i>I walked.</i>
Move-bam;	<i>I did move,</i>	<i>I moved.</i>
Dole-bam;	<i>I did ail,</i>	<i>I ailed.</i>
Luge-bam;	<i>I did mourn,</i>	<i>I mourned.</i>
Obi-bam;	<i>I did die,</i>	<i>I died.</i>
Gaude-bam;	<i>I did rejoice,</i>	<i>I rejoiced.</i>
Incipie-bam;	<i>I did begin,</i>	<i>I began.</i>
Facie-bam;	<i>I did make,</i>	<i>I made.</i>
Fodie-bam;	<i>I did dig,</i>	<i>I dug.</i>
Ride-bam;	<i>I did laugh,</i>	<i>I laughed.</i>
Imple-bam;	<i>I did fill,</i>	<i>I filled.</i>
Abstine-bam;	<i>I did forbear,</i>	<i>I forbore.</i>

It is unnecessary to make any remarks on the Latin words in this example: but in the *English* translation we have carefully marked in the first column the words without any inflection; and in the second, have put down the same meaning by an inflection of our verb; which we have been enabled to do, from a peculiar excellency in our own language unknown to any other either ancient or modern. Were it necessary to pursue this subject farther, we might observe, that the *perfect* tense in all the conjugations ends universally in *I*, the *pluperfect* in *ERAM*, and the *future* in *AM* or *BO*; in the subjunctive mood, the *imperfect* universally in *REM*, the *perfect* in *ERIM*, the *pluperfect* in *ISSEM*, and the

Language. the *future* in *ERO*: and as a still greater sameness is observable in the different variations for the persons in these tenses, seeing the first person plural in all tenses ends in *MUS*, and the second person in *TIS*, with little variation in the other persons; it is evident that, in respect of diversity of sounds, this method of conjugating verbs by *inflection*, is greatly inferior to the more natural method of expressing the various connections and relations of the verbal attributive by different words, usually called *auxiliaries*.

Variety of expressions. The *second* particular, by which the different methods of marking the relation of the verbal attributive can affect language, arises from the variety of expressions which either of these may admit of in uttering the same sentiment. In this respect, likewise, the method of conjugating by inflection seems to be deficient. Thus the present of the indicative mood in Latin can at most be expressed only in two ways, viz. *SCRIBO*, and *EGO SCRIBO*; which ought perhaps in strictness to be admitted only as one: whereas, in English, we can vary it in four different ways, viz. 1st, *I WRITE*; 2^{dly}, *I DO WRITE*; 3^{dly}, *WRITE I DO*; 4^{thly}, *WRITE DO I* (D). And if we consider the further variation which these receive in power as well as in sound, by having the emphasis placed on the different words; instead of four, we will find eleven different variations: thus, 1st, *I write*, with the emphasis upon the *I*;—2^{dly}, *I WRITE*, with the emphasis upon the word *WRITE*. Let any one pronounce these with the different emphasis necessary, and he will be immediately satisfied that they are not only distinct from each other with respect to meaning, but also with regard to sound; and the same must be understood of all the other parts of this example.

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|-----------------------|------------------------|
| 3. <i>I do write,</i> | 8. <i>Write I do,</i> |
| 4. <i>I DO write,</i> | 9. <i>WRITE do I,</i> |
| 5. <i>I do WRITE,</i> | 10. <i>Write DO I,</i> |
| 6. <i>WRITE I do,</i> | 11. <i>Write do I.</i> |
| 7. <i>Write I do,</i> | |

None of the Latin tenses admit of more variations than the two above mentioned: nor do almost any of the English admit of fewer than in the above example; and several of these phrases, which must be considered as exact translations of some of the tenses of the Latin verb, admit of many more. Thus the imperfect of the subjunctive mood, which in Latin admits of the above two variations, admits in English of the following:

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|---------------------------------|---------------------------------|
| 1. <i>I might have written.</i> | 4. <i>Written might have I.</i> |
| 2. <i>Written I might have.</i> | 5. <i>I written might have.</i> |
| 3. <i>Have written I might.</i> | 6. <i>Have written might I.</i> |

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Language. And if we likewise consider the variations which may be produced by a variation of the emphasis, they will be as under.

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|----------------------------------|----------------------------------|
| 1. <i>I might have written.</i> | 13. <i>WRITTEN might have I.</i> |
| 2. <i>I MIGHT have written.</i> | 14. <i>Written MIGHT have I.</i> |
| 3. <i>I might HAVE written.</i> | 15. <i>Written might HAVE I.</i> |
| 4. <i>I might have WRITTEN.</i> | 16. <i>Written might have I.</i> |
| 5. <i>WRITTEN I might have.</i> | 17. <i>I written might have.</i> |
| 6. <i>Written I might have.</i> | 18. <i>I WRITTEN might have.</i> |
| 7. <i>Written I MIGHT have.</i> | 19. <i>I written MIGHT have.</i> |
| 8. <i>Written I might HAVE.</i> | 20. <i>I written might HAVE.</i> |
| 9. <i>HAVE written I might.</i> | 21. <i>HAVE written might I.</i> |
| 10. <i>Have WRITTEN I might.</i> | 22. <i>Have WRITTEN might I.</i> |
| 11. <i>Have written I might.</i> | 23. <i>Have written MIGHT I.</i> |
| 12. <i>Have written I MIGHT.</i> | 24. <i>Have written might I.</i> |

In all 24 variations, instead of two.—If we likewise consider, that the Latins were obliged to employ the same word, not only to express “*I might have written*,” but also, “*I could, I would, or I should have written*,” each of which would admit of the same variations as the word *might*; we have in all *ninety-six* different expressions in English for the same phrase which in Latin admits only of two, unless they have recourse to other forced turns of expression, which the defects of their verbs in this particular has compelled them to invent.

But if it should be objected, that the last circumstance we have taken notice of as a defect, can only be considered as a defect of the Latin language, and is not to be attributed to the *inflection* of their verbs, seeing they might have had a particular tense for each of these different words *might, could, would, and should*; we answer, that, even admitting this excuse as valid, the superiority of the analogous language, as such, still remains in this respect as 12 to 1.—Yet even this concession is greater than ought to have been made: For as the difficulty of forming a sufficient variety of words for all the different modifications which a verb may be made to undergo is too great for any rude people to overcome; we find, that every nation which has adopted this mode of inflection, not excepting the Greeks themselves, has been obliged to remain satisfied with fewer words than would have been necessary even to effect this purpose, and make the same word serve a double, treble, or even quadruple office, as in the Latin tense which gave rise to these observations: So that, however in physical necessity, this may not be chargeable upon this particular mode of construction, yet in moral certainty it must always be the case; and therefore we may safely conclude, that the mode of varying verbs by *inflection* affords less variety in the arrangement of the words of the particular phrases, than

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(D) We are sufficiently aware, that the last variation cannot in strictness be considered as good language; although many examples of this manner of using it in serious compositions, both in poetry and prose, might be easily produced from the best authors in the English language.—But however unjustifiable it may be to use it in serious composition; yet, when judiciously employed in works of humour, this and other forced expressions of the like nature produce a fine effect, by giving a burlesque air to the language, and beautifully contrasting it to the purer diction of solid reasoning. The sagacious Shakespeare has, on many occasions, showed how successfully these may be employed in composition, particularly in drawing the character of *ancient Pistol* in *Henry V.* Without this liberty, Butler would have found greater difficulty in drawing the inimitable character of *Hudibras*.—Let this apology suffice for our having inserted this and other variations of the same kind; which, although they may be often improper for serious composition, have still their use in language.

Language. than the method of varying them by the help of auxiliaries.

18
Precision of meaning, in which the English is superior to the Latin language.

But if there should still remain any shadow of doubt in the mind of the reader, whether the method of varying the verbs by *inflection* is inferior to that by *auxiliaries*, with regard to diversity of sounds, or variety of expression; there cannot be the least doubt, but that with respect to precision, distinctness, and accuracy, in expressing any idea, the latter enjoys a superiority beyond all comparison.—Thus the Latin verb *Amo*, may be Englished either by the words, *I love*, or *I do love*, and the emphasis placed upon any of the words that the circumstances may require; by means of which, the meaning is pointed out with a force and energy which it is altogether impossible to produce by the use of any single word. The following line from Shakespeare's *Othello* may serve as an example:

— — — Excellent wretch!

Perdition catch my soul, but *I do love* thee:

In which the strong emphasis upon the word *do*, gives it a force and energy which conveys, in an irresistible manner, a most perfect knowledge of the situation of the mind of the speaker at the time.—That the whole energy of the expression depends upon this seemingly insignificant word, we may be at once satisfied of, by keeping it away in this manner:

— — — Excellent wretch!

Perdition catch my soul, but *I love* thee.

How poor—how tame—how insignificant is this, when compared with the other! Here nothing remains but a tame assertion, ushered in with a pompous exclamation which could not here be introduced with any degree of propriety. Whereas, in the way that Shakespeare has left it to us, it has an energy which nothing can surpass; for, overpowered with the irresistible force of Desdemona's charms, this strong exclamation is extorted from the soul of Othello in spite of himself. Surprised at this tender emotion, which brings to his mind all those amiable qualities for which he had so much esteemed her, and at the same time fully impressed with the firm persuasion of her guilt, he bursts out into that seemingly inconsistent exclamation, *Excellent wretch!* and then he adds in the warmth of his surprise,—thinking it a thing most astonishing that any warmth of affection should still remain in his breast, he even confirms it with an oath,—*Perdition catch my soul, but I do love thee.*—“In spite of all the falsehoods with which I know thou hast deceived me—in spite of all the crimes of which I know thee guilty—in spite of all those reasons for which I ought to hate thee—in spite of myself,—still I find that I love,—yes, I do love thee.” We look upon it as a thing altogether impossible to transfuse the energy of this expression into any language whose verbs are regularly inflected.

In the same manner we might go through all the other tenses, and show that the same superiority is to be found in each.—Thus, in the *perfect tense* of the Latins, instead of the simple *AMAVI*, we say, *I HAVE LOVED*; and by the liberty we have of putting the emphasis upon any of the words which compose this phrase, we can in the most accurate manner fix the precise idea which we mean to excite: for if we say,

I have loved, with the emphasis upon the word *I*, it at once points out the person as the principal object in that phrase, and makes us naturally look for a contrast in some other person, and the other parts of the phrase becomes subordinate to it;—“*HE has loved* thee much, but *I have loved* thee infinitely more.” The Latins too, as they were not prohibited from joining the pronoun with their verb, were also acquainted with this excellence, which Virgil has beautifully used in this verse:

— — — Nos patriam fugimus;

To, Tityre, lentus in umbra, &c.

But we are not only enabled thus to distinguish the person in as powerful a manner as the Latins, but can also with the same facility point out any of the other circumstances as principals; for if we say, with the emphasis upon the word *have*, “*I HAVE loved*,” it as naturally points out the time as the principal object, and makes us look for a contrast in that peculiarity, *I HAVE*: “*I have loved* indeed;—my imagination *has* been led astray—my reason *has* been perverted:—but, *now* that time has opened my eyes, I can smile at those imaginary distresses which once perplexed me.”—In the same manner we can put the emphasis upon the other word of the phrase *loved*,—“*I have LOVED*.”—Here the passion is exhibited as the principal circumstance; and as this can never be excited without some object, we naturally wish to know the object of that passion—“Who! what have you *loved*?” are the natural questions we would put in this case. “*I have LOVED—Eliza.*”—In this manner we are, on all occasions, enabled to express, with the utmost precision, that particular idea which we would wish to excite, so as to give an energy and perspicuity to the language, which can never be attained by those languages whose verbs are conjugated by inflection: and if to this we add the inconvenience which all inflected languages are subject to, by having too small a number of tenses, so as to be compelled to make one word on many occasions supply the place of two, three, or even four, the balance is turned still more in our favour.—Thus, in Latin, the same word *AMABO* stands for *shall* or *will* love, so that the reader is left to guess from the context which of the two meanings it was most likely the writer had in view.—In the same manner, *may* or *can* love are expressed by the same word *AMEM*; as are also *might*, *could*, *would*, or *should* love, by the single word *AMAREM*, as we have already observed; so that the reader is left to guess which of these four meanings the writer intended to express: which occasions a perplexity very different from that clear precision which our language allows of, by not only pointing out the different words, but also by allowing us to put the emphasis upon any of them we please, which superadds energy and force to the precision it would have had without that assistance.

Upon the whole, therefore, after the most candid examination, we must conclude, that the method of conjugating verbs by *inflection* is inferior to that which is performed by the help of *auxiliaries*;—because it does not afford such a diversity of sounds,—nor allow such variety in the arrangement of expression for the same thought,—nor give so great distinction and precision in the meaning.—It is, however,

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The method of conjugating verbs by inflection inferior to that which is performed by auxiliaries.

attended

Language. attended with one considerable advantage above the other method: for as the words of which it is formed are necessarily of greater length, and more sonorous, than in the analogous languages, it admits of a more flowing harmony of expression; for the number of monosyllables in this last greatly checks that pompous dignity which naturally results from longer words. Whether this single advantage is sufficient to counterbalance all the other defects with which it is attended, is left to the judgment of the reader to determine:—but we may remark, before we quit the subject, that even this excellence is attended with some peculiar inconveniences, which shall be more particularly pointed out in the sequel.

But perhaps it might still be objected, that although the comparison we have made above may be fair, and the conclusion just, with regard to the Latin and English languages; yet it does not appear clear, that on that account the method of conjugating verbs by *inflection* is inferior to that by *auxiliaries*; for although it be allowed that the Latin language is defective in point of tenses; yet if a language were formed which had a sufficient number of inflected tenses to answer every purpose; if it had, for instance, a word properly formed for every variation of each tense; one for *I love*, another for *I do love*; one for *I shall*, another for *I will love*; one for *I might*, another for *I could*, and *would*, and *should love*; and so on through all the other tenses; that this language would not be liable to the objections we have brought against the inflection of verbs; and that of course, the objections we have brought are only valid against those languages which have followed that mode and executed it imperfectly.—We answer, that although this would in some measure remedy the evil, yet it would not remove it entirely. For, in the first place, unless every verb, or every small number of verbs, were conjugated in one way, having the sound of the words in each tense, and division of tenses, as we may say different from all the other conjugations,—it would always occasion a sameness of sound, which would in some measure prevent that variety of sounds so proper for a language. And even if this could be effected, it would not give such a latitude to the expression as auxiliaries allow: for although there should be two words, one for *I might*, and another for *I could love*; yet as these are single words, they cannot be varied; whereas, by auxiliaries, either of these can be varied 24 different ways, as has been shown above. In the last place, no single word can ever express all that variety of meaning which we can do by the help of our auxiliaries and the emphasis. *I have loved*, if expressed by any one word, could only denote at all times one distinct meaning; so that to give it the power of ours, three distinct words at least would be necessary. However, if all this were done; that is, if there were a distinct conjugation formed for

every 40 or 50 verbs;—if each of the tenses were properly formed, and all of them different from every other tense as well as every other verb; and these all carried through each of the different persons, so as to be all different from one another;—and if likewise there were a distinct word to mark each of the separate meanings which the same tense could be made to assume by means of the emphasis; and if all this infinite variety of words could be formed in a distinct manner, different from each other, and harmonious; this language would have powers greater than any that could be formed by auxiliaries, if it were possible for the human powers to acquire such a degree of knowledge as to be able to employ it with facility. But how could this be attained, since upwards of ten thousand words would be necessary to form the variations of any one verb, and a hundred times that number would not include the knowledge of the verbs alone of such a language (E)!—How much, therefore, ought we to admire the simple perspicuity of our language, which enables us, by the proper application of ten or twelve seemingly trifling words, the meaning and use of which can be attained with the utmost ease, to express all that could be expressed by this unwieldy apparatus? What can equal the simplicity or the power of the one method, but the well-known powers of the 24 letters, the knowledge of which can be obtained with so much ease—and their powers know no limits?—or, what can be compared to the fancied perfection of the other, but the transcript of it which the Chinese seem to have formed in their unintelligible language?

Having thus considered pretty fully the advantages and defects of each of these two methods of varying verbs, we cannot help feeling a secret wish arise in our mind, that there had been a people sagacious enough to have united the powers of the one method with those of the other; nor can we help being surprised, that among the changes which took place in the several languages of Europe after the downfall of the Roman monarchy, some of them did not accidentally stumble on the method of doing it. From many concurring circumstances, it seems probable that the greatest part, if not all the Gothic nations that over-ran Italy at that time, had their verbs varied by the help of auxiliaries; and many of the modern European languages which have sprung from them, have so far borrowed from the Latin, as to have some of the tenses of their verbs inflected: yet the English alone have in any instance combined the joint powers of the two: which could only be done by forming inflections for the different tenses in the same manner as the Latins, and at the same time retaining the original method of varying them by auxiliaries; by which means either the one or the other method could have been employed as occasion required. We have luckily two tenses formed

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(E) This assertion may perhaps appear to many very much exaggerated: but if any should think so, we only beg the favour that he will set himself to mark all the variations of tenses, mode, person, and number, which an English verb can be made to assume, varying each of these in every way that it will admit, both as to the diversity of expression and the emphasis; he will soon be convinced that we have here said nothing more than enough.

Language. in that way; the *present* of the indicative, and the aorist of the *past*. In almost all our verbs these can be declined either with or without auxiliaries. Thus the present, without an auxiliary, is, *I love, I write, I speak*; with an auxiliary, *I do write, I do love, I do speak*. In the same manner, the past tense, by inflection, is, *I loved, I wrote, I spoke*; by auxiliaries, *I did love, I did speak, I did write*. Every author, who knows any thing of the power of the English language, knows the use which may be made of this distinction. What a pity is it that we should have stopt short so soon! how blind was it in so many other nations to imitate the defects, without making a proper use of that beautiful language which is now numbered among the dead!

20 Analogous and transpositive languages compared with respect to the cases of nouns.

After the verbs, the next most considerable variation we find between the *analogous* and *transpositive* languages is in the nouns; the latter varying the different cases of these by *inflection*; whereas the former express all the different variations of them by the help of other words prefixed, called *prepositions*. Now, if we consider the advantages or disadvantages of either of these methods under the same heads as we have done the verbs, we shall find, that with regard to the first particular, viz. variety of sounds, almost the same remarks may be made as upon the verbs; for if we compare any particular noun by itself, the variety of sound appears much greater between the different cases in the *transpositive*, than between the translation of these in the *analogous* language. Thus *REX, REGIS, REGI, REGEM, &c.* are more distinct from one another in point of sound, than the translation of these, *a king, of a king, to a king, a king, &c.* But if we proceed one step further, and consider the variety which is produced in the language *in general* by the one or the other of these methods, the case is entirely reversed. For as it would have been impossible to form distinct variations, different from one another, for each case of every noun, they have been obliged to reduce all their nouns into a few general classes, called *declensions*, and to give to all those included under each class the same termination in every case; which produces a like similarity of sound with what we already observed was occasioned to the verbs from the same cause; whereas in the analogous languages, as there is no necessity for any constraint, there is almost as great a variety of sounds as their are of nouns. The Latins have only five different declensions; so that all the great number of words of this general order must be reduced to the very small diversity of sounds which these few classes admit of; and even the sounds of these few classes are not so much diversified as they might have been, as many of the different *cases* in the different *declensions* have exactly the same sounds, as we shall have occasion to remark more fully hereafter. We might here produce examples to show the great *similarity* of sounds between different nouns in the Latin language, and *variety* in the English, in the same way as we did of the verbs: but as every reader in the least acquainted with these two languages can satisfy himself in this particular, without any further trouble than by marking down any number of Latin nouns, with their translations into English, we think it unnecessary to dwell longer on this particular.

But if the inflection of nouns is a disadvantage to a language in point of diversity of sounds, it is very

much the reverse with regard to the variety it allows in the arranging the words of the phrase. Here, indeed, the transpositive language shines forth in all its glory, and the analogous must yield the palm without the smallest dispute. For as the *nominative case* (or that noun which is the cause of the energy expressed by the verb) is different from the *accusative* (or that noun upon which the energy expressed by the verb is exerted), these may be placed in any situation that the writer shall think proper, without occasioning the smallest confusion: whereas in the analogous languages, as these two different states of the noun are expressed by the same word, they cannot be distinguished but by their position alone: so that the noun which is the efficient cause must always precede the verb, and that which is the passive subject must follow; which greatly cramps the harmonious flow of composition.—Thus the Latins, without the smallest perplexity in the meaning, could say either *Brutum amavit Cassius*, or *Cassius amavit Brutum*, or *Brutum Cassius amavit*, or *Cassius Brutum amavit*. As the termination of the word *Cassius* always points out that it is in the *nominative case*, and therefore that he is the person from whom the energy proceeds; and in the same manner, as the termination of the word *Brutum* points out that it is in the *accusative case*, and consequently that he is the object upon whom the energy is exerted; the meaning continues still distinct and clear, notwithstanding of all these several variations: whereas in the English language, we could only say *Cassius loved Brutus*, or, by a more forced phraseology, *Cassius Brutus loved*: Were we to reverse the case, as in the Latin, the meaning also would be reversed; for if we say *Brutus loved Cassius*, it is evident, that, instead of being the person beloved, as before, *Brutus* now becomes the person from whom the energy proceeds, and *Cassius* becomes the object beloved.—In this respect, therefore, the analogous languages are greatly inferior to the transpositive; and indeed it is from this single circumstance alone that they derive their chief excellence.

But although it thus appears evident, that any language, which has a particular variation of its nouns to distinguish the *accusative* from the *nominative case*, has an advantage over those languages which have none; yet it does not appear that any other of their *cases* adds to the variety, but rather the reverse: for, in Latin, we can only say *Amor Dei*; in English the same phrase may be rendered, either,—*the love of God*—*of God the love*,—or, by a more forced arrangement, *God the love of*. And as these oblique cases, as the Latins called them, except the *accusative*, are clearly distinguished from one another, and from the *nominative*, by the preposition which accompanies them, we are not confined to any particular arrangement with regard to these as with the *accusative*, but may place them in what order we please, as in Milton's elegant invocation at the beginning of *Paradise Lost*:

Of man's first disobedience, and the fruit
Of that forbidden tree, whose mortal taste
Brought death into the world, and all our wo,
With loss of Eden, till one greater man
Restore us, and regain the blissful seat,
Sing, heavenly Muse.

In this sentence the transposition is almost as great as the

22
Inferior
with re-
gard to the
arrange-
ment of
words in a
sentence;

Language. the Latin language would admit of, and the meaning as distinct as if Milton had begun with the plain language of prose, thus,—"Heavenly muse, sing of man's first disobedience," &c.

Before we leave this head, we may remark, that the little attention which seems to have been paid to this peculiar advantage derived from the use of an accusative case different from the nominative, is somewhat surprising. The Latins, who had more occasion to attend to this with care than any other nation, and even the Greeks themselves, have in many cases overlooked it, as is evident from the various instances we meet with in their languages where this is not distinguished. For all nouns of the neuter gender both in Greek and Latin have in every declension their nominative and accusative singular alike. Nor in the plural of such nouns is there any distinction between these two cases; and in Latin all nouns whatever of the third, fourth, and fifth declensions, of which the number is very considerable, have their nominative and accusative plural alike. So that their language reaps no advantage in this respect from almost one half of their nouns. Nor have any of the modern languages in Europe, however much they may have borrowed from the ancient languages in other respects, attempted to copy from them in this particular; from which perhaps more advantage would have been gained, than from copying all the other supposed excellencies of their language.—But to return to our subject.

23 Greatly superior as to precision of meaning. It remains that we consider, whether the inflection of nouns gives any advantage over the method of defining them by prepositions, in point of distinctness and precision of meaning? But in this respect, too, the analogous languages must come off victorious. Indeed this is the particular in which their greatest excellence consists, nor was it, we believe, ever disputed, but that, in point of accuracy and precision, this method must excel all others, however it may be defective in other respects. We observed under this head, when speaking of verbs, that it might perhaps be possible to form a language by inflection which should be capable of as great accuracy as in the more simple order of auxiliaries: but this would have been such an infinite labour, that it was not to be expected that ever human powers would have been able to accomplish it. More easy would it have been to have formed the several inflections of the nouns so different from one another, as to have rendered it impossible ever to mistake the meaning. Yet even this has not been attempted. And as we find that those languages which have adopted the method of inflecting their verbs are more imperfect in point of precision than the other, so the same may be said of inflecting the nouns: for, not to mention the energy which the analogous languages acquire by putting the accent upon the noun, or its preposition (when in an oblique case), according as the subject may require, to express which variation of meaning no particular variety of words have been invented in any inflected language, they are not even complete in other respects. The Latin, in particular, is in many cases defective, the same termination being employed in many instances for different cases of the same noun. Thus the genitive and dative singular, and nominative and vocative plural, of the first declension, are all exactly alike, and can only be distinguished from one another by the formation

Language. of the sentences;—as are also the nominative, vocative, and ablative singular, and the dative and ablative plural. In the second, the genitive singular, and nominative and vocative plural, are the same; as are also the dative and ablative singular, and dative and ablative plural; except those in *um*, whose nominative, accusative, and vocative singular, and nominative, accusative, and vocative plural, are alike. The other three declensions agree in as many of their cases as these do; which evidently tends to perplex the meaning, unless the hearer is particularly attentive to, and well acquainted with, the particular construction of the other parts of the sentence; all of which is totally removed, and the clearest certainty exhibited at once, by the help of prepositions in the analogous languages.

It will hardly be necessary to enter into such a minute examination of the advantages or disadvantages attending the variation of *adjectives*; as it will appear evident, from what has been already said, that the endowing them with terminations familiar to, and corresponding with, *substantives*, must tend still more to increase the similarity of sounds in any language, than any of those particulars we have already taken notice of; and were it not for the liberty which they have, in transpositive languages, of separating the adjective from the substantive, this must have occasioned such a jingle of similar sounds as could not fail to have been most disgusting to the ear: but as it would have been impossible in many cases, in those languages where the verbs and nouns are inflected, to have pronounced the words which ought to have followed each other, unless their adjectives could have been separated from the substantives; therefore, to remedy this inconvenience, they were forced to devise this unnatural method of inflecting them also; by which means it is easy to recognise to what substantive any adjective has a reference, in whatever part of the sentence it may be placed. In these languages, therefore, this inflection, both as to gender, number, and case, becomes absolutely necessary; and, by the diversity which it admitted in the arranging the words of the several phrases, might counterbalance the jingle of similar sounds which it introduced into the language.

24 These two different idioms of language compared as to their general effects. Having thus examined the most striking particulars in which the transpositive and analogous languages differ, and endeavoured to show the general tendency of every one of the particulars separately, it would not be fair to dismiss the subject without considering each of these as a whole, and pointing out their general tendency in that light: for we all know, that it often happens in human inventions, that every part which composes a whole, taken separately, may appear extremely fine; and yet, when all these parts are put together, they may not agree, but produce a jarring and confusion very different from what we might have expected. We therefore imagine a few remarks upon the genius of each of these two distinct *idioms* of language considered as a whole will not be deemed useless.

25 The transpositive idiom fittest for solemn composition. Although all languages agree in this respect, that they are the means of conveying the ideas of one man to another; yet as there is an infinite variety of ways in which we might wish to convey these ideas, sometimes by the easy and familiar mode of conversation, and at other times by more solemn addresses to the

Language. understanding, by pompous declamation, &c. it may so happen, that the genius of one language may be more properly adapted to the one of these than the other, while another language may excel in the opposite particular. This is exactly the case in the two general *idioms* of which we now treat. Every particular in a *transpositive* language, is peculiarly calculated for that solemn dignity which is necessary for pompous orations. Long sounding words, formed by the inflection of the different parts of speech,—flowing periods, in which the attention is kept awake by the harmony of the sounds, and in expectation of that word which is to unravel the whole,—if composed by a skilful artist, are admirably suited to that solemn dignity and awful grace which constitute the essence of a public harangue. On the contrary, in private conversation, where the mind wishes to unbend itself with ease, these become so many clogs which encumber and perplex. At these moments we wish to transfuse our thoughts with ease and facility—we are tired with every unnecessary syllable—and wish to be freed from the trouble of attention as much as may be. Like our state-robes, we would wish to lay aside our pompous language, and enjoy ourselves at home with freedom and ease. Here the solemnity and windings of the *transpositive* language are burdensome; while the facility with which a sentiment can be expressed in the *analogous* language is the thing that we wish to acquire. Accordingly in Terence and Plautus, where the beauties of dialogue are most charmingly displayed, *transposition* is sparingly used. In this humble, though most engaging sphere, the analogous language moves unrivalled;—in this it wishes to indulge, and never tires. But it in vain attempts to rival the *transpositive* in dignity and pomp: The number of monosyllables interrupt the flow of harmony; and although they may give a greater variety of sounds, yet they do not naturally possess that dignified gravity which suits the other language. This, then, must be considered as the striking particular in the genius of these two different *idioms*, which marks their characters.

If we consider the effects which these two different characters of language must naturally produce upon the people who employ them, we will soon perceive, that the genius of the *analogous* language is much more favourable for the most engaging purposes of life, the civilizing the human mind by mutual intercourse of thought, than the *transpositive*. For as it is chiefly by the use of speech that man is raised above the brute creation;—as it is by this means he improves every faculty of his mind, and, to the observations which he may himself have made, has the additional advantage of the experience of those with whom he may converse, as well as the knowledge which the human race have acquired by the accumulated experience of all preceding ages;—as it is by the enlivening glow of conversation that kindred souls catch fire from one another, that thought produces thought, and each improves upon the other, till they soar beyond the bounds which human reason, if left alone, could ever have aspired to;—we must surely consider that language as the most beneficial to society, which most effectually removes these bars that obstruct its progress. Now, the genius of the *analogous* languages is so easy, so simple and plain, as to be within the reach of every one who is born in the kingdom where it is used

to speak it with facility; even the rudest among the vulgar can hardly fall into any considerable grammatical errors: whereas, in the *transpositive* languages, so many rules are necessary to be attended to, and so much variation is produced in the meaning, by the slightest variations in the sound, that it requires a study far above the reach of the illiterate mechanic ever to attain. So that, how perfect soever the language may be when spoken with purity, the bulk of the nation must ever labour under the inconvenience of rudeness and inaccuracy of speech, and all the evils which this naturally produces.—Accordingly, we find, that in Rome, a man, even in the highest rank, received as much honour, and was as much distinguished among his equals, for being able to converse with ease, as a modern author would be for writing in an easy and elegant style; and Cæsar among his contemporaries was as much esteemed for his superiority in speaking the language in ordinary conversation with ease and elegance, as for his powers of oratory, his skill in arms, or his excellence in literary composition. It is needless to point out the many inconveniences which this must unavoidably produce in a state. It is sufficient to observe, that it naturally tends to introduce a vast distinction between the different orders of men; to set an impenetrable barrier between those born in a high and those born in a low station; to keep the latter in ignorance and barbarity, while it elevates the former to such a height as must subject the other to be easily led by every popular demagogue.—How far the history of the nations who have followed this *idiom* of language confirms this observation, every one is left to judge for himself.

Having thus considered *LANGUAGE* in general, and pointed out the genius and tendency of the two most distinguished *idioms* which have prevailed; we shall close these remarks with a few observations upon the particular nature and genius of those languages which are now chiefly spoken or studied in Europe.

Of all the nations whose memory history has transmitted to us, none have been so eminently distinguished for their literary accomplishments, as well as acquaintance with the polite arts, as the Greeks; nor are we as yet acquainted with a language possessed of so many advantages, with so few defects, as that which they used, and which continues still to be known by their name.—The necessary connection between the progress of knowledge and the improvement of language has been already explained; so that it will not be surprising to find their progress in the one keep pace with that of the other: but it will be of utility to point out some advantages which that distinguished people possessed, which other nations, perhaps not less distinguished for talents or taste, have not enjoyed, which have contributed to render their language the most universally admired in ancient as well as in modern times.

It has been already observed, that the original inhabitants of Greece, who were gross savages, and whose language of course would be very rude and narrow, were first tamed by the Pelasgi, an eastern or an Egyptian tribe. From the east it is well known that arts and sciences were spread over the rest of the world, and that Egypt was one of the countries first civilized. The language therefore imported into Greece by the Pelasgi would be pure from the fountain head, and much

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26
The analogous for private conversation and written dialogue.

27
Observations on those languages which are now chiefly spoken or studied in Europe.

28
The great superiority of the Greek language, owing to what causes.

Language. more perfect in its structure than if it had been transmitted through many nations. But this was not the only circumstance highly fortunate for the Greek language. Before it had time to be fully established among the people, its asperities, which it had in common with the other dialects of the east, were polished away by such a succession of poets, musicians, philosophers, and legislators, from different countries, as never appeared in any other nation at a period so early as to give their genius and taste its full influence. In this respect, no people were ever so eminently distinguished as the ancient Greeks, who had their Orpheus, their Linus, their Cecrops, and their Cadmus, who introduced their different improvements at a time when the nation had no standard of taste formed by itself. Hence the original sounds of the Greek language are the most harmonious, and the most agreeable to the ear, of any that have hitherto been invented. They are indeed agreeable to every person who hears them, even when the meaning of the words is not understood; whereas almost all other languages, till they are understood, appear, to an ear which has not been accustomed to them, jarring and discordant. This is the fundamental excellence of that justly admired language; nor have the people failed to improve this to the utmost of their power, by many aids of their own invention. The Greek language is of the *transpositive* kind: but a people so lively, so acute, and so loquacious, could ill bear the ceremonious restraint to which that mode of language naturally subjected them; and have therefore, by various methods, freed it in a great measure from the stiffness which that produced. In inflecting their nouns and verbs, they sometimes prefix a syllable, and sometimes add one; which, besides the variety that it gives to the sounds of the language, adds greatly to the distinctness, and admits of a more natural arrangement of the words than in the Latin, and of consequence renders it much fitter for the easiness of private conversation: and indeed the genius of the people so far prevailed over the *idiom* of the language, as to render it, in the age of its greatest perfection, capable of almost as much ease, and requiring almost as little transposition of words, as those languages which have been called *analogous*. But as those nations who spoke this language were all governed by popular assemblies, and as no authority could be obtained among them but by a skill in rhetoric and the powers of persuasion; it became necessary for every one, who wished to acquire power or consideration in the state, to improve himself in the knowledge of that language, in the use of which alone he could expect honours or reputation. Hence it happened, that while the vivacity of the people rendered it easy, the great men studiously improved every excellence that it could reap from its powers as a *transpositive* language; so that, when brought to its utmost perfection by the amazing genius of the great Demosthenes, it attained a power altogether unknown to any other language.—Thus happily circumstanced, the Greek language arrived at that envied pre-eminence which it still justly retains. From the progress of arts and sciences; from the gaiety and inventive genius of the people; from the number of free states into which Greece was divided, each of which invented words of its own, all of which contributed to the general stock; and from the natural communica-

tion which took place between these states, which excited in the strongest degree the talents of the people; it acquired a copiousness unknown to any ancient language, and excelled by few of the moderns.—In point of harmony of numbers, it is altogether unrivalled; and on account of the ease as well as dignity which, from the causes above mentioned, it acquired, it admits of perfection in a greater number of particular kinds of composition than any other language known.—The irresistible force and overwhelming impetuosity of Demosthenes seems not more natural to the genius of the language, than the more flowery charms of Plato's calm and harmonious cadences, or the undorned simplicity of Xenophon; nor does the majestic pomp of Homer seem to be more agreeable to the genius of the language in which he wrote, than the more humble strains of Theocritus, or the laughing festivity of Anacreon: Equally adapted to all purposes, when we peruse any of these authors, we would imagine the language was most happily adapted for his particular style alone. The same powers it likewise, in a great measure, possessed for conversation; and the dialogue seems not more natural for the dignity of Sophocles or Euripides, than for the more easy tenderness of Menander, or buffoonery of Aristophanes.—With all these advantages, however, it must be acknowledged, that it did not possess that unexceptionable clearness of meaning which some analogous languages enjoy, or that characteristic force which the emphasis properly varied has power to give, were not these defects counterbalanced by other causes which we shall afterwards point out.

The Romans, a people of fierce and warlike dispositions, for many ages during the infancy of their republic, more intent on pursuing conquests and military glory than in making improvements in literature or the fine arts, bestowed little attention to their language. Of a disposition less social or more phlegmatic than the Greeks, they gave themselves no trouble about rendering their language fit for conversation; and it remained strong and nervous, but, like their ideas, was limited and confined. More disposed to command respect by the power of their arms than by the force of persuasion, they despised the more effeminate powers of speech: so that, before the Punic wars, their language was perhaps more reserved and uncourtly than any other at that time known.—But after their rival Carthage was destroyed, and they had no longer that powerful curb upon their ambition; when riches flowed in upon them by the multiplicity of their conquests;—luxury began to prevail, the stern austerity of their manners to relax, and selfish ambition to take place of that disinterested love for their country so eminently conspicuous among all orders of men before that period.—Popularity began then to be courted: ambitious men, finding themselves not possessed of that merit which insured them success with the virtuous senate, amused the mob with artful and seditious harangues; and by making them believe that they were possessed of all power, and had their sacred rights encroached upon by the senate, led them about at their pleasure, and got themselves exalted to honours and riches by these insidious arts. It was then the Romans first began to perceive the use to which a command of language could be put. Ambitious men then

Language

29
The Latin language inferior to the Greek; and why.

Language. then studied it with care, to be able to accomplish their ends; while the more virtuous were obliged to acquire a skill in this, that they might be able to repel the attacks of their adversaries.—Thus it happened, that in a short time that people, from having entirely neglected, began to study their language with the greatest assiduity; and as Greece happened to be subjected to the Roman yoke about that time, and a friendly intercourse was established between these two countries, this greatly conspired to nourish in the minds of the Romans a taste for that art of which they had lately become so much enamoured. Greece had long before this period been corrupted by luxury; their taste for the fine arts had degenerated into unnecessary refinement; and all their patriotism consisted in popular harangues and unmeaning declamation. Oratory was then studied as a refined art; and all the subtleties of it were taught by rule, with as great care as the gladiators were afterwards trained up in Rome. But while they were thus idly trying who should be the lord of their own people, the nerves of government were relaxed, and they became an easy prey to every invading power. In this situation they became the *subjects*, under the title of the *allies*, of Rome, and introduced among them the same taste for haranguing which prevailed among themselves. Well acquainted as they were with the powers of their own language, they set themselves with unwearied assiduity to polish and improve that of their new masters: but with all their assiduity and pains, they never were able to make it arrive at that perfection which their own language had acquired; and in the Augustan age, when it had arrived at the summit of its glory, Cicero bitterly complains of its want of copiousness in many particulars.

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fection.

But as it was the desire of all who studied this language with care, to make it capable of that stately dignity and pomp necessary for public harangues, they followed the genius of the language in this particular, and in a great measure neglected those lesser delicacies which form the pleasure of domestic enjoyment; so that, while it acquired more copiousness, more harmony, and precision, it remained stiff and inflexible for conversation: nor could the minute distinction of nice grammatical rules be ever brought down to the apprehension of the vulgar; whence the language spoken among the lower class of people remained rude and unpolished even to the end of the monarchy. The Huns who over-run Italy, incapable of acquiring any knowledge of such a difficult and abstruse language, never adopted it; and the native inhabitants being made acquainted with a language more natural and easily acquired, quickly adopted that idiom of speech introduced by their conquerors, although they still retained many of those words which the confined nature of the barbarian language made necessary to allow them to express their ideas.—And thus it was that the language of Rome, that proud mistress of the world, from an original defect in its formation, although it had been carried to a perfection in other respects far superior to any northern language at that time, easily gave way to them, and in a few ages the knowledge of it was lost among mankind: while, on the contrary, the more easy nature of the Greek language has still been able to keep some slight footing in the world, although the nations in which it has

been spoken have been subjected to the yoke of foreign reign dominion for upwards of two thousand years, and their country has been twice ravaged by barbarous nations, and more cruelly depressed than ever the Romans were.

From the view which we have already given of the Latin language, it appears evident, that its idiom was more strictly transpositive than that of any other language yet known, and was attended with all the defects to which that idiom is naturally subjected: nor could it boast of such favourable alleviating circumstances as the Greek, the prevailing sounds of the Latin being far less harmonious to the ear; and although the formation of the words are such as to admit of full and distinct sounds, and so modulated as to lay no restraint upon the voice of the speaker; yet, to a person unacquainted with the language, they do not convey that enchanting harmony so remarkable in the Greek language. The Latin is stately and solemn; it does not excite disgust; but at the same time it does not charm the ear, so as to make it listen with delightful attention. To one acquainted with the language indeed, the nervous boldness of the thoughts, the harmonious rounding of the periods, the full solemn swelling of the sounds, so distinguishable in the most eminent writers in that language which have been preserved to us, all conspire to make it pleasing and agreeable.—In these admired works we meet with all its beauties, without perceiving any of its defects; and we naturally admire, as perfect, a language which is capable of producing such excellent works.—Yet with all these seeming excellencies, this language is less copious, and more limited in its style of composition, than many modern languages; far less capable of precision and accuracy than almost any of these; and infinitely behind them all in point of easiness in conversation. But these points have been so fully proved already, as to require no further illustration.—Of the compositions in that language which have been preserved to us, the *Orations* of Cicero are best adapted to the genius of the language, and we there see it in its utmost perfection. In the *Philosophical Works* of that great author we perceive some of its defects; and it requires all the powers of that great man to render his *Epistles* agreeable, as these have the genius of the language to struggle with.—Next to oratory, history agrees with the genius of this language; and Cæsar, in his *Commentaries*, has exhibited the language in its purest elegance, without the aid of pomp or foreign ornament.—Among the poets, Virgil has best adapted his works to his language. The flowing harmony and pomp of it is well adapted for the epic strain, and the correct delicacy of his taste rendered him perfectly equal to the task. But Horace is the only poet whose force of genius was able to overcome the bars which the language threw in his way, and succeed in lyric poetry. Were it not for the brilliancy of the thoughts, and acuteness of the remarks, which so eminently distinguish this author's compositions, his odes would long ere now have sunk into utter oblivion. But so conscious have all the Roman poets been of the unsuitness of their language for easy dialogue, that almost none of them, after Plautus and Terence, have attempted any dramatic compositions in that language. Nor have we any reason to regret that they neglected this

³¹ ^{Language.} branch of poetry, as it is probable, if they had ever become fond of these, they would have been obliged to have adopted so many unnatural contrivances to render them agreeable, as would have prevented us (who of course would have considered ourselves as bound to follow them) from making that progress in the drama which so particularly distinguishes the productions of modern times.

³¹ ^{The Italian language of Gothic idiom and} The modern *Italian* language, from an inattention too common in literary subjects, has been usually called a *child of the Latin language*, and is commonly believed to be the ancient Latin a little debased by the mixture of the barbarous language of those people who conquered Italy. The truth is, the case is directly the reverse: for this language, in its general idiom and fundamental principles, is evidently of the analogous kind, first introduced by those fierce invaders, although it has borrowed many of its words, and some of its modes of phraseology, from the Latin, with which they were so intimately blended that this could scarcely be avoided; and it has been from remarking this slight connection so obvious at first sight, that superficial observers have been led to draw this general conclusion, so contrary to fact.

When Italy was over-run with the Lombards, and the empire destroyed by these northern invaders, they, as conquerors, continued to speak their own native language. Fierce and illiterate, they would not stoop to the servility of studying a language so clogged with rules, and difficult of attainment, as the Latin would naturally be to a people altogether unacquainted with nice grammatical distinctions: while the Romans of necessity were obliged to study the language of their conquerors, as well to obtain some relief of their grievances by prayers and supplications, as to destroy that odious distinction which subsisted between the conquerors and conquered while they continued as distinct people. As the language of their new masters, although rude and confined, was natural in its order, and easy to be acquired, the Latins would soon attain a competent skill in it: and as they bore such a proportion to the whole number of people, the whole language would partake somewhat of the general sound of the former: for, in spite of all their efforts to the contrary, the organs of speech could not at once be made to acquire a perfect power of uttering any unaccustomed sounds; and as it behoved the language of the barbarians to be much less copious than the Latin, whenever they found themselves at a loss for a word, they would naturally adopt those which most readily presented themselves from their new subjects. Thus a language in time was formed, somewhat resembling the Latin both in the general tenor of the sounds and in the meaning of many words: and as the barbarians gave themselves little trouble about language, and in some cases perhaps hardly knew the general analogy of their own language, it is not surprising if their new subjects should find themselves sometimes at a loss on that account; or if, in these situations, they followed, on some occasions, the analogy suggested to them by their own: which accounts for the strange degree of mixture of heterogeneous grammatical analogy we meet with in the Italian as well as Spanish and French languages. The idiom of all the Gothic languages is purely analogous; and in all probability,

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before their mixture with the Latins and other people ^{Language.} in their provinces, the several grammatical parts of speech followed the plain simple idea which that supposes; the verbs and nouns were all probably varied by auxiliaries, and their adjectives retained their simple unalterable state:—but by their mixture with the Latins, this simple form has been in many cases altered; their verbs became in some cases inflected; but their nouns in all these languages still retained their original form; although they have varied their adjectives, and foolishly clogged their nouns with gender, according to the Latin idioms. From this heterogeneous and fortuitous (as we may say, because injudicious) mixture of parts, results a language possessing almost all the defects of each of the languages of which it is composed, with few of the excellencies of either: for it has neither the ease and precision of the *analogous*, nor the pomp and boldness of the *transpositive*, languages; at the same time that it is clogged with almost as many rules, and liable to as great abuses.

These observations are equally applicable to the French and Spanish as to the Italian language. With regard to this last in particular, we may observe, that as the natural inhabitants of Italy, before the last invasion of the barbarians, were sunk and enervated by luxury, and that by depression of mind and genius which anarchy always produces, they had become fond of feasting and entertainments, and the enjoyment of sensual pleasures constituted their highest delight; and their language partook of the same debility as their body.—The barbarians too, unaccustomed to the seductions of pleasure, soon fell from their original boldness and intrepidity, and, like Hannibal's troops of old, were enervated by the sensual gratifications in which a nation of conquerors unaccustomed to the restraint of government freely indulged. The softness of the air, the fertility of the climate, the unaccustomed flow of riches which they at once acquired, together with the voluptuous manner of their conquered subjects; all conspired to enervate their minds, and render them soft and effeminate. No wonder then, if a language new-moulded at this juncture should partake of the genius of the people who formed it; and instead of participating of the martial boldness and ferocity of either of their ancestors, should be softened and enfeebled by every device which an effeminate people could invent.—The strong consonants which terminated the words, and gave them life and boldness, being thought too harsh for the delicate ears of these sons of sloth, were banished their language; while sonorous vowels, which could be protracted to any length in music, were substituted in their stead.—Thus the Italian language is formed flowing and harmonious, though but destitute of those nerves which constitute the strength and vigour of a language: at the same time, the sounds are neither enough diversified, nor in themselves of such an agreeable tone, as to afford great pleasure without the aid of musical notes; and the small pleasure which this affords is still lessened by the little variety of measure which the great similarity of the terminations of the words occasions. Hence it happens, that this language is fitted for excelling in fewer branches of literature than almost any other: and although we have excellent historians, and more than ordinary poets, in Italian, yet they labour under

³³ Has the defects of both its parent tongues.

³⁴ And though flowing and harmonious, is too feeble for the highest species of composition.

Language. great inconveniences, from the language wanting nerves and stateliness for the former, and sufficient variety of modulation for the latter. It is, more particularly on this account, altogether unfit for an epic poem: and though attempts have been made in this way by two men whose genius, if not fettered by the language, might have been crowned with success; yet these, notwithstanding the fame that with some they may have acquired, must, in point of poetic harmony, be deemed defective by every impartial person. Nor is it possible that a language which hardly admits of poetry without rhyme, can ever be capable of producing a perfect poem of great length; and the stanza to which their poets have ever confined themselves, must always produce the most disagreeable effect in a poem where unrestrained pomp or pathos are necessary qualifications. The only species of poetry in which the Italian language can claim a superior excellence, is the tender tone of elegy: and here it remains unrivalled and alone; the plaintive melody of the sounds, and smooth flow of the language, being perfectly adapted to express that soothing melancholy which this species of poetry requires. On this account the plaintive scenes of the *Pastor Fido* of Guarini have justly gained to that poem an universal applause; although, unless on this account alone, it is perhaps inferior to almost every other poem of the kind which ever appeared.—We must observe with surprise, that the Italians, who have fettered every other species of poetry with the severest shackles of rhyme, have in this species showed an example of the most unrestrained freedom; the happy effects of which ought to have taught all Europe the powerful charms attending it: yet with amazement we perceive, that scarce an attempt to imitate them has been made by any poet in Europe except by Milton in his *Lycidas*; no dramatic poet, even in Britain, having ever adopted the unrestrained harmony of numbers to be met with in this and many other of their best dramatic compositions.

35
The excellency of the Spanish tongue.

Of all the languages which sprung up from the mixture of the Latins with the northern people on the destruction of the Roman empire, none of them approach so near to the genius of the Latin as the Spanish does. For as the Spaniards have been always remarkable for their military prowess and dignity of mind, their language is naturally adapted to express ideas of that kind. Sonorous and solemn, it admits nearly of as much dignity as the Latin. For conversation, it is the most elegant and courteous language in Europe.

The humane and generous order of chivalry was first invented, and kept its footing longest, in this nation; and although it run at last into such a ridiculous excess as deservedly made it fall into universal disrepute, yet it left such a strong tincture of romantic heroism upon the minds of all ranks of people, as made them jealous of their glory, and strongly emulous of cultivating that heroic politeness, which they considered as the highest perfection they could attain. Every man disdained to flatter, or to yield up any point of honour which he possessed; at the same time, he rigorously exacted from others all that was his due. These circumstances have given rise to a great many terms of respect, and courteous condescension, without meanness or flattery, which give their dialogue a respectful politeness and elegance unknown to any other

European language. This is the reason why the characters so finely drawn by Cervantes in *Don Quixotte* are still unknown to all but those who understand the language in which he wrote. Nothing can be more unlike the gentle meekness and humane heroism of the knight, or the native simplicity, warmth of affection, and respectful loquacity of the squire, than the inconsistent follies of the one, or the impertinent forwardness and disrespectful petulance of the other, as they are exhibited in every English translation. Nor is it, as we imagine, possible to represent so much familiarity, united with such becoming condescension in the one, and unfeigned deference in the other, in any other European language, as is necessary to paint these two admirable characters.

Although this language, from the solemn dignity and majestic elegance of its structure, is perhaps better qualified than any other modern one for the sublime strains of epic poetry; yet as the poets of this nation have all along imitated the Italians by a most servile subjection to rhyme, they never have produced one poem of this sort, which in point of poetry of style deserves to be transmitted to posterity. And in any other species of poetry but this, or the higher tragedy, it is not naturally fitted to excel. But although the drama and other polite branches of literature were early cultivated in this country, and made considerable progress in it, before the thirst of gain debased their souls, or the desire of universal dominion made them forfeit that liberty which they once so much prized; since they became enervated by an overbearing pride, and their minds enslaved by superstition, all the polite arts have been neglected: so that, while other European nations have been advancing in knowledge, and improving their language, they have remained in a state of torpid inactivity; and their language has not arrived at that perfection which its nature would admit, or the acute genius of the people might have made us naturally expect.

It will perhaps by some be thought an unpardonable insult, if we do not allow the French the preference of all modern languages in many respects. But so far must we pay a deference to truth, as to be obliged to rank it among the poorest languages in Europe. Every other language has some sounds which can be uttered clearly by the voice: even the Italian, although it wants energy, still possesses distinctness of articulation. But the French is almost incapable of either of these beauties; for in that language the vowels are so much curtailed in the pronunciation, and the words run into one another in such a manner, as necessarily to produce an indistinctness which renders it incapable of measure or harmony. From this cause, it is in a great measure incapable of poetic modulation, and rhyme has been obliged to be substituted in its stead; so that this poorest of all contrivances which has ever yet been invented to distinguish poetry from prose, admitted into all the modern languages when ignorance prevailed over Europe, has still kept some footing in the greatest part of these, rather through a deference for established customs than from any necessity. Yet as the French language admits of so little poetic modulation, rhyme is in some measure necessary to it; and therefore this poor deviation from prose has been adopted by it, and dignified with the name of *Poetry*.

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The French language deficient in dignity and energy; but

Language. try. But by their blind attachment to this artifice, the French have neglected to improve so much as they might have done the small powers for harmony of which their language is possessed; and by being long accustomed to this false taste, they have become fond of it to such a ridiculous excess, as to have all their tragedies, nay even their comedies, in rhyme. While the poet is obliged to enervate his language, and check the flow of composition, for the sake of linking his lines together, the judicious actor finds more difficulty in destroying the appearance of that measure, and preventing the clinking of the rhimes, than in all the rest of his task.—After this, we will not be surprised to find Voltaire attempt an epic poem in this species of poetry; although the more judicious Fenelon in his *Telemaque* had shown to his countrymen the only species of poesy that their language could admit of for any poem which aspired to the dignity of the epic strain.—Madam Deshouliers, in her *Idyllie*, has shown the utmost extent of harmony to which their language can attain in smaller poems: indeed in the tenderness of an elegy, or the gaiety of a song, it may succeed; but it is so destitute of force and energy, that it can never be able to reach the pindaric, or even perhaps the lyric strain,—as the ineffectual efforts even of the harmonious Rousseau, in his translation of the Psalms of David of this stamp, may fully convince us.

With regard to its powers in other species of composition, the sententious rapidity of Voltaire, and the more nervous dignity of Rousseau, afford us no small presumption, that, in a skilful hand, it might acquire so much force, as to transmit to futurity historical facts in a style not altogether unworthy of the subject. In attempts at pathetic declamation, the superior abilities of the composer may perhaps on some occasions excite a great idea; but this is ever cramped by the genius of the language: and although no nation in Europe can boast of so many orations where this grandeur is attempted; yet perhaps there are few who cannot produce more perfect, although not more laboured, compositions of this kind.

But notwithstanding the French language labours under all these inconveniences; although it can neither equal the dignity or genuine politeness of the Spanish, the nervous boldness of the English, nor the melting softness of the Italian; although it is desti-

tute of poetic harmony, and so much cramped in sound *Language.* as to be absolutely unfit for almost every species of musical composition (F); yet the sprightly genius of that volatile people has been able to surmount all these difficulties, and render it the language most generally esteemed, and most universally spoken, of any in Europe; for this people, naturally gay and loquacious, and fond to excess of those superficial accomplishments which engage the attention of the fair sex, have invented such an infinity of words capable of expressing vague and unmeaning compliment, now dignified by the name of *politeness*, that, in this strain, one who uses the French can never be at a loss; and as it is easy to converse *more*, and really say *less*, in this than in any other language, a man of very moderate talents may distinguish himself much more by using this than any other that has ever yet been invented. On this account, it is peculiarly well adapted to that species of conversation which must ever take place in those general and promiscuous companies, where many persons of both sexes are met together for the purposes of relaxation or amusement; and must of course be naturally admitted into the courts of princes, and assemblies of great personages; who, having fewer equals with whom they can associate, are more under a necessity of conversing with strangers, in whose company the tender stimulus of friendship does not so naturally expand the heart to mutual trust or unrestrained confidence. In these circumstances, as the heart remaineth disengaged, conversation must necessarily flag; and mankind in this situation will gladly adopt that language in which they can converse most easily without being deeply interested. On these accounts the French now is, and probably will continue to be, reckoned the most polite language in Europe, and therefore the most generally studied and known: nor should we envy them this distinction, if our countrymen would not weaken and enervate their own manly language, by adopting too many of their unmeaning phrases.

The English is perhaps possessed of a greater degree of excellence, blended with a greater number of defects, than any of the languages we have hitherto mentioned. As the people of Great Britain are a bold, daring, and impetuous race of men, subject to strong passions, and, from the absolute freedom and independence which reigns amongst all ranks of people

37
Admirably fitted for light conversation.

38
The excellencies and defects of the English tongue.

3 Z 2

throughout

(F) An author of great discernment, and well acquainted with the French language, has lately made the same remark; and as the loftiness of his genius often prevents him from bringing down his illustrations to the level of ordinary comprehension, he has on this and many other occasions been unjustly accused of being fond of paradoxes.—But as music never produces its full effect but when the tones it assumes are in unison with the idea that the words naturally excite, it of necessity follows, that if the words of any language do not admit of that fulness of sound, or that species of tones, which the passion or affection that may be described by the words would naturally require to excite the same idea in the mind of one who was unacquainted with the language, it will be impossible for the music to produce its full effect, as it will be cramped and confined by the sound of the words;—and as the French language does not admit of those full and open sounds which are necessary for pathetic expression in music, it must of course be unfit for musical composition.—It is true indeed, that in modern times, in which so little attention is bestowed on the simple and sublime charms of pathetic expression, and a fantastical tingling of unmeaning sounds is called *music*—where the sense of the words are lost in fugues, quavers, and unnecessary repetition of particular syllables,—all languages are nearly fitted for it; and among these the French: nor is it less to be doubted, that, in the easy gaiety of a song, this language can properly enough admit of all the musical expression which that species of composition may require.

Language throughout this happy isle, little solicitous about controlling these passions;—our language takes its strongest characteristical distinction from the genius of the people; and, being bold, daring, and abrupt, is admirably well adapted to express those great emotions which spring up in an intrepid mind at the prospect of interesting events. Peculiarly happy too in the full and open sound of the vowels, which forms the characteristic *tone* of the language, and in the strong use of the aspirate H in almost all those words which are used as exclamations, or marks of strong emotions upon interesting occasions, that particular class of words called *interjections* have, in our language, more of that fulness and unrestrained freedom of tones, in which their chief power consists, and are pushed forth from the inmost recesses of the soul in a more forcible and unrestrained manner, than any other language whatever. Hence it is more peculiarly adapted for the great and interesting scenes of the *drama* than any language that has yet appeared on the globe. Nor has any other nation ever arrived at that perfection which the English may justly claim in that respect; for however faulty our dramatic compositions may be in some of the critical niceties which relate to this art,—in nervous force of diction, and in the natural expression of those great emotions which constitute its soul and energy, we claim, without dispute, an unrivalled superiority. Our language too, from the great intercourse that we have had with almost all the nations of the globe by means of our extensive commerce, and from the eminent degree of perfection which we have attained in all the arts and sciences, has acquired a copiousness beyond what any other modern language can lay claim to: and even the most partial favourers of the Greek language are forced to acknowledge, that in this respect it must give place to the English. Nor is it less happy in that facility of construction which renders it more peculiarly adapted to the genius of a free people, than any other form of language. Of an *idiom* purely analogous, it has deviated less from the genius of that *idiom*, and possesses more of the characteristic advantages attending it than any other language that now exists: for, while *others*, perhaps by their more intimate connection with the Romans, have adopted some of their transpositions, and clogged their language with unnecessary fetters, *we* have preserved ourselves free from the contagion, and still retain the primitive simplicity of our language. Our *verbs* are all varied by auxiliaries (except in the instance we have already given, which is so much in our favour); our *nouns* remain free from the perplexing embarrassment of *genders*, and our pronouns mark this distinction where necessary with the most perfect accuracy; our *articles* also are of course freed from this unnatural encumbrance, and our *adjectives* preserve their natural freedom and independence. From these causes, our language follows an order of construction so natural and easy, and the rules of *syntax* are so few and obvious, as to be within the reach of the most ordinary capacity. So that from this, and the great clearness and distinctness of meaning with which this mode of construction is necessarily accompanied, it is much better adapted for the familiar intercourse of private society, and liable to fewer errors in using it,

than any other language yet known; and on this account we may boast, that in no nation of Europe do the lower class of people speak their language with so much accuracy, or have their minds so much enlightened by knowledge, as in Great Britain. — What then shall we say of the discernment of those grammarians, who are every day echoing back to one another complaints of the poverty of our language on account of the few and simple rules which it requires in syntax? As justly might we complain of an invention in mechanics, which, by means of one or two simple movements, obvious to an ordinary capacity, little liable to accidents, and easily put in order by the rudest hand, should possess the whole powers of a complex machine, which had required an infinite apparatus of wheels and contrary movements, the knowledge of which could only be acquired, or the various accidents to which it was exposed by using it be repaired, by the powers of an ingenious artist, as complain of this characteristic excellence of our language as a defect.

But if we thus enjoy in an eminent degree the advantages attending an *analogous* language, we likewise feel in a considerable measure the defects to which it is exposed; as the number of monosyllables with which it always must be embarrassed, notwithstanding the great improvements which have been made in our language since the revival of letters in Europe, prevents in some degree that swelling fulness of sound which so powerfully contributes to harmonious dignity and graceful cadences in literary compositions. And as the genius of the people of Britain has always been more disposed to the rougher arts of command than to the softer insinuations of persuasion, no pains have been taken to correct these natural defects of our language; but, on the contrary, by an inattention of which we have hardly a parallel in the history of any civilized nation, we meet with many instances, even within this last century, of the harmony of sound being sacrificed to that brevity so desirable in conversation, as many elegant words have been curtailed, and harmonious syllables suppressed, to substitute in their stead others, shorter indeed, but more barbarous and uncouth. Nay, so little attention have our forefathers bestowed upon the harmony of sounds in our language, that one would be tempted to think, on looking back to its primitive state, that they had on some occasions studiously debased it. Our language, at its first formation, seems to have laboured under a capital defect in point of sound, as such a number of S's enter into the formation of our words, and such a number of letters and combinations of other letters assume a similar sound, as to give a general hiss through the whole tenor of our language, which must be exceedingly disagreeable to every unprejudiced ear. We would therefore have naturally expected, that at the revival of letters, when our forefathers became acquainted with the harmonious languages of Greece and Rome, they would have acquired a more correct taste, and endeavoured, if possible, to diminish the prevalence of this disgusting sound. But so far have they been from thinking of this, that they have multiplied this letter exceedingly. The plurals of almost all our nouns were originally formed by adding the harmonious syllable *en* to the singular

Language. singular, which has given place to the letter *s*; and instead of *housen* formerly, we now say *houses*. In like manner, many of the variations of our verbs were formed by the syllable *eth*, which we have likewise changed into the same disagreeable letter; so that, instead of *loveth*, *moveth*, *writeth*, *walketh*, &c. we have changed them into the more modish form of *loves*, *moves*, *writes*, *walks*, &c. Our very auxiliary verbs have suffered the same change; and instead of *hath* and *doth*, we now make use of *has* and *does*. From these causes, notwithstanding the great improvements which have been made in language, within these few centuries, in other respects; yet, with regard to the pleasingness of sound alone, it was perhaps much more perfect in the days of Chaucer than at present: and although custom may have rendered these sounds so familiar to our ear, as not to affect us much; yet to an unprejudiced person, unacquainted with our language, we have not the smallest doubt but the language of *Bacon* or *Sidney* would appear more harmonious than that of *Robertson* or *Hume*. This is indeed the fundamental defect of our language, and loudly calls for reformation.

But notwithstanding this great and radical defect with regard to pleasingness of sounds, which must be so strongly perceived by every one who is unacquainted with the meaning of our words; yet to those who understand the language, the exceeding copiousness which it allows in the choice of words proper for the occasion, and the nervous force which the perspicuity and graceful elegance the emphasis bestows upon it, makes this defect be totally overlooked; and we could produce such numerous works of prose, which excel in almost every different style of composition, as would be tiresome to enumerate: every reader of taste and discernment will be able to recollect a sufficient number of writings which excel in point of style, between the graceful and becoming gravity so conspicuous in all the works of the author of the *Whole Duty of Man*, and the animated and nervous diction of *Robertson* in his *History of Charles the Fifth*,—the more flowery style of *Shaftesbury*, or the Attic simplicity and elegance of *Addison*. But although we can equal, if not surpass, every modern language in works of prose, it is in its poetical powers that our language shines forth with the greatest lustre. The brevity to which we must here necessarily confine ourselves, prevents us from entering into a minute examination of the poetical powers of our own, compared with other languages; otherwise it would be easy to show, that every other modern language labours under great restraints in this respect which ours is freed from;—that our language admits of a greater variety of poetic movements, and diversity of cadence, than any of the admired languages of antiquity; that it distinguishes with the greatest accuracy between accent and quantity, and is possessed of every other poetic excellence which their languages were capable of: so that we are possessed of all the sources of harmony which they could boast; and, besides all these, have one super-added, which is the cause of greater variety and more forcible expression in numbers than all the rest; that is, the unlimited power given by the emphasis over quantity and cadence; by means whereof, a necessary union between sound and sense, numbers and meaning,

Language. in versification, unknown to the ancients, has been brought about, which gives our language in this respect a superiority over all those justly admired languages. But as we cannot here further pursue this subject, we shall only observe, that these great and distinguishing excellencies far more than counterbalance the inconveniences that we have already mentioned: and although, in mere pleasantness of sounds, or harmonious flow of syllables, our language may be inferior to the Greek, the Latin, Italian, and Spanish; yet in point of manly dignity, graceful variety, intuitive distinctness, nervous energy of expression, unconstrained freedom and harmony of poetic numbers, it will yield the palm to none. Our immortal Milton, slowly rising, in graceful majesty stands up as equal, if not superior in these respects to any poet, in any other language, that ever yet existed;—while Thomson, with more humble aim, in melody more smooth and flowing, softens the soul to harmony and peace:—the plaintive moan of Hammond calls forth the tender tear and sympathetic sigh; while Gray's more soothing melancholy fixes the sober mind to silent contemplation:—more tender still than these, the amiable Shenstone comes; and from his Doric reed, still free from courtly affectation, flows a strain so pure, so simple, and of such tender harmony, as even Arcadian shepherds would be proud to own. But far before the rest, the daring Shakespeare steps forth conspicuous, clothed in native dignity; and, pressing forward with unremitting ardour, boldly lays claim to both dramatic crowns held out to him by Thalia and Melpomene:—his rivals, far behind, look up, and envy him for these unfading glories; and the astonished nations round, with distant awe, behold and tremble at his daring flight.——Thus the language, equally obedient to all, bends with ease under their hands, whatever form they would have it assume; and, like the yielding wax, readily receives, and faithfully transmits to posterity, those impressions which they have stamped upon it.

Such are the principal outlines of the language of Great Britain, such are its beauties, and such its most capital defects; a language more peculiarly circumstanced than any that has ever yet appeared.—It is the language of a great and powerful nation, whose fleets surround the globe, and whose merchants are in every port; a people admired or revered by all the world:—and yet it is less known in every foreign country than many of the other languages in Europe. In it are written more perfect treatises on every art and science than are to be found in any other language;—yet it is less sought after or esteemed by the literati in any part of the globe than almost any of these. Its superior powers for every purpose of language are sufficiently obvious from the models of perfection in almost every particular which can be produced in it:—yet it is neglected, despised, and vilified by the people who use it; and many of those authors who owe almost the whole of their fame to the excellence of the language in which they wrote, look upon that very language with the highest contempt. Neglected and despised, it has been trodden under foot as a thing altogether unworthy of cultivation or attention. Yet in spite of all these inconveniences, in spite of the many wounds it has thus received, it still holds up its head.

Language.

head, and preserves evident marks of that comeliness and vigour which are its characteristical distinction. Like a healthy oak planted in a rich and fertile soil, it has sprung up with vigour: and although neglected, and suffered to be over-run with weeds; although exposed to every blast, and unprotected from every violence; it still beareth up under all these inconveniences, and shoots up with a robust healthiness and wild luxuriance of growth. Should this plant, so sound and vigorous, be now cleared from those weeds with which it has been so much encumbered;—should every obstacle which now buries it under thick shades, and hides it from the view of every passenger, be cleared away;—should the soil be cultivated with care, and a strong fence be placed around it, to prevent the idle or the wicked from breaking or distorting its branches;—who can tell with what additional vigour it would flourish, or what amazing magnitude and perfection it might at last attain!—How would the astonished world behold, with reverential awe, the majestic gracefulness of that object which they so lately despised!

Beauty of LANGUAGE considered in regard to Composition. The beauties of language may be divided into three classes: 1. Those which arise from sound; 2. Those which respect significance; 3. Those derived from a resemblance between sound and signification.

Elements
of Crit.

I. *With respect to sound.* In a cursory view, one would imagine, that the agreeableness or disagreeableness of a word with respect to sound, should depend upon the agreeableness or disagreeableness of its component syllables: which is true in part, but not entirely; for we must also take under consideration the effect of syllables in succession. In the first place, syllables in immediate succession, pronounced each of them with the same, or nearly the same, aperture of the mouth, produce a succession of weak and feeble sounds; witness the French words *dit-il, pathétique*: on the other hand, a syllable of the greatest aperture succeeding one of the smallest, or the contrary, makes a succession which, because of its remarkable disagreeableness, is distinguished by a proper name, viz. *hiatus*. The most agreeable succession is, where the cavity is increased and diminished alternately, within moderate limits: examples, *Alternative, longevity, pusillanimous*. Secondly, words consisting wholly of syllables pronounced slow, or of syllables pronounced quick, commonly called *long* and *short syllables*, have little melody in them; witness the words *petitioner, fruiterer, dizziness*: on the other hand, the intermixture of long and short syllables is remarkably agreeable; for example, *degree, repent, wonderful, altitude, rapidity, independent, impetuosity*; the cause of which is explained in POETRY, Part II.

To proceed to the music of periods. As the arrangement of words in succession, so as to afford the greatest pleasure to the ear, depends on principles remote from common view, it will be necessary to premise some general observations upon the appearance that objects make when placed in an increasing or decreasing series; which appearance will vary according to the prevalence of resemblance or of contrast. Where the objects vary by small differences so as to have a mutual resemblance, we in ascending conceive the second object of no greater size than the first, the third of no greater size than the second, and so of the rest;

which diminisheth in appearance the size of every object except the first: but when beginning at the greatest object, we proceed gradually to the least, resemblance makes us imagine the second as great as the first, and the third as great as the second; which in appearance magnifies every object except the first. On the other hand, in a series varying by large differences, where contrast prevails, the effects are directly opposite: a great object succeeding a small one of the same kind, appears greater than usual; and a little object succeeding one that is great, appears less than usual. † See *Re-*
Hence a remarkable pleasure in viewing a series ascending by large differences; directly opposite to what we feel when the differences are small. The least object of a series ascending by large differences has the same effect upon the mind as if it stood single without making a part of the series: but the second object, by means of contrast, appears greater than when viewed singly and apart; and the effect is perceived in ascending progressively, till we arrive at the last object. The opposite effect is produced in descending; for in this direction, every object, except the first, appears less than when viewed separately and independent of the series. We may then assume as a maxim, which will hold in the composition of language as well as of other subjects, That a strong impulse succeeding a weak, makes a double impression on the mind; and that a weak impulse succeeding a strong, makes scarce any impression.

After establishing this maxim, we can be at no loss about its application to the subject in hand. The following rule is laid down by Diomedes †. “In verbis † *De struct.*
observandum est, ne a majoribus ad minora descendat perfecta
oratio; melius enim dicitur, *Vir est optimus*, quam, *orator lib. ii.*
Vir optimus est.” This rule is also applicable to entire members of a period, which, according to our author’s expression, ought not, more than single words, to proceed from the greater to the less, but from the less to the greater. In arranging the members of a period, no writer equals Cicero: The following examples are too beautiful to be slurred over by a reference.

Quicum quæstor fueram,
Quicum me fors consuetudoque majorum,
Quicum me deorum hominumque judicium conjunxerat.

Again:

Habet honorem quem petimus,
Habet spem quam præpositam nobis habemus,
Habet existimationem, multo sudore, labore, vigiliisque, collectam.

Again:

Eripite nos ex miseriis,
Eripite nos ex faucibus eorum,
Quorum crudelitas nostro sanguine non potest expleri.

De oratore, l. i. § 52.

This order of words or members gradually increasing in length, may, so far as concerns the pleasure of sound, be denominated a *climax in sound*.

With respect to the music of periods as united in a discourse this depends chiefly on variety. Hence a rule for arranging the members of different periods with

Language. with relation to each other, That to avoid a tedious uniformity of sound and cadence, the arrangement, the cadence, and the length of the members, ought to be diversified as much as possible: and if the members of different periods be sufficiently diversified, the periods themselves will be equally so.

II. *With respect to signification.* The beauties of language with respect to signification, may not improperly be distinguished into two kinds: first, the beauties that arise from a right choice of words or materials for constructing the period; and next, the beauties that arise from a due arrangement of these words or materials.

1. Communication of thought being the chief end of language, it is a rule, That perspicuity ought not to be sacrificed to any other beauty whatever. Nothing therefore in language ought more to be studied, than to prevent all obscurity in the expression; for to have no meaning, is but one degree worse than to have a meaning that is not understood. We shall here give a few examples where the obscurity arises from a wrong choice of words.

Livy, speaking of a rout after a battle, "Multique in ruina majore quam fuga oppressi obtruncatique." This author is frequently obscure by expressing but part of his thought, leaving it to be completed by his reader. His description of the sea-fight, *l. 28. cap. 30.* is extremely perplexed.

Unde tibi reditum certo subtemine Parcæ
Rupere.

Hor.

Qui persæpe cava testudine flevit amorem,
Non elaboratum ad pedem.

Id.

Me fabulosæ Vulture in Appulo,
Altriciis extra limen Apuliæ,
Ludo, fatigatumque somno,
Fronde nova puerum palumbes
Texere.

Id.

Puræ rivus aquæ, silvaque jugerum
Paucorum, et segetis certa fides meæ,
Fulgentem imperio fertilis Africæ
Fallit sorte beator.

Id.

Cum fas atque nefas exiguo sine libidinum
Discernunt avidi.

Id.

Ac spem fronte serenat.

Virg.

The rule next in order is, That the language ought to correspond to the subject: heroic actions or sentiments require elevated language; tender sentiments ought to be expressed in words soft and flowing; and plain language void of ornament, is adapted to subjects grave and didactic. Language may be considered as the dress of thought; and where the one is not suited to the other, we are sensible of incongruity, in the same manner as where a judge is dressed like a fop, or a peasant like a man of quality. Where the impression made by the words resembles the impression made by the thought, the similar emotions mix sweetly in the mind, and double the pleasure; but where the impressions made by the thought and the words are dissimilar, the unnatural union they are forced into is disagreeable.

This concordance between the thought and the

words has been observed by every critic, and is so well understood as not to require any illustration. But there is a concordance of a peculiar kind that has scarcely been touched in works of criticism, though it contributes to neatness of composition. It is what follows.

In a thought of any extent, we commonly find some parts intimately united, some slightly, some disjoined; and some directly opposed to each other. To find these conjunctions and disjunctions imitated in the expression, is a beauty; because such imitation makes the words concordant with the sense. This doctrine may be illustrated by a familiar example: When we have occasion to mention the intimate connection that the soul hath with the body, the expression ought to be, *the soul and body*; because the article *the*, relative to both, makes a connection in the expression, resembling in some degree the connection in the thought; but when the soul is distinguished from the body, it is better to say *the soul and the body*; because the disjunction in the words resembles the disjunction in the thought. We proceed to other examples, beginning with conjunctions.

"Constituit agmen; et expedire tela animosque, equitibus jussis," &c. *Livy, l. 38. § 25.* Here the words that express the connected ideas are artificially connected by subjecting them both to the regimen of one verb. And the two following are of the same kind.

"Quum ex paucis quotidie aliqui eorum caderent aut vulnerarentur, et qui superarent, fessi et corporibus et animis essent," &c. *Ibid. § 29.*

Post acer Mnestheus adducto constitit arcu,
Alta petens, pariterque oculos telumque tetendit.

Æneid, v. 507.

But to justify this artificial connection among the words, the ideas they express ought to be intimately connected; for otherwise that concordance which is required between the sense and the expression will be impaired. In that view, the following passage from Tacitus is exceptionable; where words that signify ideas very little connected, are however forced into an artificial union. "Germania omnis a Gallis, Rhætiisque, et Pannoniis, Rheno et Danubio fluminibus; a Sarmatis Dacisque, mutuo metu aut montibus separatur."

Upon the same account, the following passage seems equally exceptionable.

— — — — — The fiend look'd up, and knew
His mounted scale aloft; nor more, but fled
Murm'ring, and with him fled the shades of night.

Paradise Lost, B. iv. at the end.

There is no natural connection between a person's flying or retiring, and the succession of day-light to darkness; and therefore to connect artificially the terms that signify these things cannot have a sweet effect.

Two members of a thought connected by their relation to the same action, will naturally be expressed by two members of the period governed by the same verb; in which case these members, in order to improve their connection, ought to be constructed in the same manner. This beauty is so common among good writers as to have been little attended to; but the neglect of it is remarkably disagreeable: for example, "He did

not

Language. not mention Leonora, nor that her father was dead." Better thus: "He did not mention Leonora, nor her father's death."

Where two ideas are so connected as to require but a copulative, it is pleasant to find a connection in the words that express these ideas, were it even so slight as where both begin with the same letter. Thus,

"The peacock, in all his pride, does not display half the colour that appears in the garments of a British lady, when she is either dressed for a ball or a birthday." *Spect.*

"Had not my dog of a steward run away as he did, without making up his accounts, I had still been immersed in sin and sea-coal." *Ib.*

My life's companion, and my bosom-friend,
One faith, one fame, one fate shall both attend.

Dryden, *Translation of Æneid.*

Next as to examples of disjunction and opposition in the parts of the thought, imitated in the expression; an imitation that is distinguished by the name of *antithesis*.

Speaking of Coriolanus soliciting the people to be made consul:

With a proud heart he wore his humble weeds.

Coriolanus.

"Had you rather Cæsar were living, and die all slaves, than that Cæsar were dead, to live all free men?"

Julius Cæsar.

He hath cool'd my friends and heated mine enemies.

Shakespeare.

An artificial connection among the words, is undoubtedly a beauty when it represents any peculiar connection among the constituent parts of the thought; but where there is no such connection, it is a positive deformity, because it makes a discordance between the thought and expression. For the same reason, we ought also to avoid every artificial opposition of words where there is none in the thought. This last, termed *verbal antithesis*, is studied by low writers, because of a certain degree of liveliness in it. They do not consider how incongruous it is, in a grave composition, to cheat the reader, and to make him expect a contrast in the thought, which upon examination is not found there.

A fault directly opposite to the last mentioned, is to conjoin artificially words that express ideas opposed to each other. This is a fault too gross to be in common practice; and yet writers are guilty of it in some degree, when they conjoin by a copulative things transacted at different periods of time. Hence a want of neatness in the following expression: "The nobility too, whom the king had no means of retaining by suitable offices and preferments, had been seized with the general discontent, and unwarily threw themselves into the scale which began already too much to preponderate." *Hume.* In periods of this kind, it appears more neat to express the past time by the participle passive, thus: "The nobility having been seized with the general discontent, unwarily threw themselves," &c. or, "The nobility, who had been seized, &c. unwarily threw themselves," &c.

It is unpleasant to find even a negative and affirmative proposition connected by a copulative:

Nº 174.

If it appear not plain, and prove untrue,
Deadly divorce step between me and you.

Shakespeare.

In mirth and drollery it may have a good effect to connect verbally things that are opposite to each other in the thought. Example; Henry IV. of France introducing the Marechal Biron to some of his friends, "Here, gentlemen (says he) is the Marechal Biron, whom I freely present both to my friends and enemies."

This rule of studying uniformity between the thought and expression may be extended to the construction of sentences or periods. A sentence or period ought to express one entire thought or mental proposition; and different thoughts ought to be separated in the expression by placing them in different sentences or periods. It is therefore offending against neatness, to crowd into one period entire thoughts requiring more than one; which is joining in language things that are separated in reality. Of errors against this rule take the following examples.

"Behold, thou art fair, my beloved, yea pleasant: also our bed is green."

Burnet, in the history of his own times, giving Lord Sunderland's character, says; "His own notions were always good; but he was a man of great expence."

"I have seen a woman's face break out in heats, as she has been talking against a great lord, whom she had never seen in her life; and indeed never knew a party-woman that kept her beauty for a twelvemonth." *Spect.*

Lord Bolingbroke, speaking of Strada: "I single him out among the moderns, because he had the foolish presumption to censure Tacitus, and to write history himself; and your lordship will forgive this short excursion in honour of a favourite writer."

To crowd into a single member of a period different subjects, is still worse than to crowd them into one period:

————— Trojam genitore Adamaſto
Paupere (manſiſſetque utinam fortuna) proſectus.

Æneid iii. 614.

From conjunctions and disjunctions in general, we proceed to comparisons, which make one species of them, beginning with similes. And here also, the intimate connection that words have with their meaning requires, that in describing two resembling objects, a resemblance in the two members of the period ought to be studied. To begin with examples of resemblances expressed in words that have no resemblance.

"I have observed of late, the style of some great ministers very much to exceed that of any other productions." *Swift.* This, instead of studying the resemblance of words in a period that expresses a comparison, is going out of one's road to avoid it. Instead of *productions*, which resemble not ministers great nor small, the proper word is *writers* or *authors*.

"I cannot but fancy, however, that this imitation, which passes so currently with *other judgments*, must at some time or other have stuck a little with your *lordship*." *Shaftesb.* Better thus: "I cannot but fancy, however, that this imitation, which passes so currently with *others*, must at some time or other have stuck a little with your *lordship*."

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Language.

Language. "A glutton or mere sensualist is as ridiculous as the other two characters." *Id.*

"They wisely prefer the generous efforts of goodwill and affection, to the reluctant compliances of such as obey by force." *Bolingb.*

It is a still greater deviation from congruity, to affect not only variety in the words, but also in the construction.

Hume speaking of *Shakespeare*: "There may remain a suspicion that we over-rate the greatness of his genius, in the same manner as bodies appear more gigantic on account of their being disproportioned and mishapen." This is studying variety in a period where the beauty lies in uniformity. Better thus: "There may remain a suspicion that we over-rate the greatness of his genius, in the same manner as we over-rate the greatness of bodies that are disproportioned and mishapen."

Next of comparison where things are opposed to each other. And here it must be obvious, that if resemblance ought to be studied in the words which express two resembling objects, there is equal reason for studying opposition in the words which express contrasted objects. This rule will be best illustrated by examples of deviations from it.

"A friend exaggerates a man's virtues; an enemy inflames his crimes." *Spea.* Here the opposition in the thought is neglected in the words; which at first view seem to import, that the friend and enemy are employed in different matters, without any relation to each other, whether of resemblance or of opposition. And therefore the contrast or opposition will be better marked by expressing the thought as follows: "A friend exaggerates a man's virtues, an enemy his crimes."

"The wise man is happy when he gains his own approbation; the fool when he recommends himself to the applause of those about him." *Id.* Better: "The wise man is happy when he gains his own approbation, the fool when he gains that of others."

We proceed to a rule of a different kind. During the course of a period, the scene ought to be continued without variation: the changing from person to person, from subject to subject, or from person to subject, within the bounds of a single period, distracts the mind, and affords no time for a solid impression.

Hook, in his Roman history, speaking of *Eumenes*, who had been beat to the ground with a stone, says, "After a short time he came to himself; and the next day they put him on board his ship, which conveyed him first to Corinth, and thence to the island of *Ægina*."

The following period is unpleasant, even by a very slight deviation from the rule: "That sort of instruction which is acquired by inculcating an important moral truth," &c. This expression includes two persons, one acquiring, and one inculcating; and the scene is changed without necessity. To avoid this blemish, the thought may be expressed thus: "That sort of instruction which is afforded by inculcating," &c.

The bad effect of such a change of person is remarkable in the following passage: "The Britons, daily harassed by cruel inroads from the Picts, were forced

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to call in the Saxons for their defence, who consequently reduced the greatest part of the island to their own power, drove the Britons into the most remote and mountainous parts, and the rest of the country, in customs, religion, and language, became wholly Saxon." *Swift.*

The following passage has a change from subject to person: "This prostitution of praise is not only a deceit upon the groins of mankind, who take their notion of characters from the learned; but also the better sort must by this means lose some part at least of that desire of fame which is the incentive to generous actions, when they find it promiscuously bestowed on the meritorious and undeserving." *Guardian*, N^o 4.

The present head, which relates to the choice of materials, shall be closed with a rule concerning the use of copulatives. *Longinus* observes, that it animates a period to drop the copulatives; and he gives the following example from *Xenophon*: "Closing their shields together, they were push'd, they fought, they slew, they were slain." The reason may be what follows. A continued sound, if not loud, tends to lay us asleep: an interrupted sound rouses and animates by its repeated impulses: thus feet composed of syllables, being pronounced with a sensible interval between each, make more lively impressions than can be made by a continued sound. A period of which the members are connected by copulatives, produceth an effect upon the mind approaching to that of a continued sound; and therefore the suppressing copulatives must animate a description. It produces a different effect akin to that mentioned: the members of a period connected by proper copulatives, glide smoothly and gently along; and are a proof of sedateness and leisure in the speaker: on the other hand, one in the hurry of passion, neglecting copulatives and other particles, expresses the principal image only; and for that reason, hurry or quick action is best expressed without copulatives:

Veni, vidi, vici.

Ite:

Ferte citi flammæ, date vela, impellite remos.

Æneid. iv. 593.

Quis globus, O cives, caligine volvitur atra?

Ferte citi ferrum, date tela, scandite muros.

Hostis adest, eja.

Æneid. ix. 37.

In this view *Longinus* justly compares copulatives in a period to strait tying, which in a race obstructs the freedom of motion.

It follows, that a plurality of copulatives in the same period ought to be avoided; for if the laying aside copulatives give force and liveliness, a redundancy of them must render the period languid. The following instance may be appealed to, though there are but two copulatives: "Upon looking over the letters of my female correspondents, I find several from women complaining of jealous husbands; and at the same time protesting their own innocence, and desiring my advice upon this occasion." *Spea.*

Where the words are intended to express the coldness of the speaker, there indeed the redundancy of copulatives is a beauty:

' Dining one day at an alderman's in the city, Peter observed him expatiating after the manner of his bre

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Language. " thren in the praises of his surloin of beef. " Beef (said the sage magistrate) is the king of meat: beef comprehends in it the quintessence of partridge, and quail, and venison, and pheasant, and plum-pudding, and custard." *Tale of a Tub*, § 4. And the author shows great delicacy of taste by varying the expression in the mouth of Peter, who is represented more animated: " Bread (says he), dear brothers, is the staff of life; in which bread is contained, *inclusive*, the quintessence of beef, mutton, veal, venison, partridge, plum-pudding, and custard."

Another case must also be excepted. Copulatives have a good effect where the intention is to give an impression of a great multitude consisting of many divisions; for example: 'The army was composed of Grecians, and Carians, and Lycians, and Pamphylians, and Phrygians.' The reason is, that a leisurely survey, which is expressed by the copulatives, makes the parts appear more numerous than they would do by a hasty survey: in the latter case, the army appears in one group; in the former, we take as it were an accurate survey of each nation, and of each division.

2. To pave the way for the rules of arrangement, it will be here necessary to explain the difference between a natural style and that where transposition or inversion prevails. In a natural style, relative words are by juxtaposition connected with those to which they relate, going before or after, according to the peculiar genius of the language. Again, a circumstance connected by a preposition, follows naturally the word with which it is connected. But this arrangement may be varied, when a different order is more beautiful: a circumstance may be placed before the word with which it is connected by a preposition; and may be interjected even between a relative word and that to which it relates. When such liberties are frequently taken, the style becomes inverted or transposed.

But as the liberty of inversion is a capital point in the present subject, it will be necessary to examine it more narrowly, and in particular to trace the several degrees in which an inverted style recedes more and more from that which is natural. And first, as to the placing a circumstance before the word with which it is connected, this is the easiest of all inversion, even so easy as to be consistent with a style that is properly termed *natural*: witness the following examples.

" In the sincerity of my heart, I profess," &c.

" By our own ill management, we are brought to so low an ebb of wealth and credit, that," &c.

" On Thursday morning there was little or nothing transacted in Change-alley."

" At St Bride's church in Fleetstreet, Mr Woolston (who writ against the miracles of our Saviour), in the utmost terrors of conscience, made a public recantation."

The interjecting a circumstance between a relative word and that to which it relates, is more properly termed *inversion*; because, by a disjunction of words intimately connected, it recedes farther from a natural style. But this licence has degrees; for the disjunction is more violent in some cases than in others.

In nature, though a subject cannot exist without its qualities, nor a quality without a subject; yet in our conception of these, a material difference may be remarked. We cannot conceive a quality but as belong-

ing to some subject: it makes indeed a part of the idea which is formed of the subject. But the opposite holds not; for though we cannot form a conception of a subject void of all qualities, a partial conception may be formed of it, abstracting from any particular quality: we can, for example, form the idea of a fine Arabian horse without regard to his colour, or of a white horse without regard to his size. Such partial conception of a subject is still more easy with respect to action or motion, which is an occasional attribute only, and has not the same permanency with colour or figure: we cannot form an idea of motion independent of a body; but there is nothing more easy than to form an idea of a body at rest. Hence it appears, that the degree of inversion depends greatly on the order in which the related words are placed: when a substantive occupies the first place, the idea it suggests must subsist in the mind at least for a moment, independent of the relative words afterward introduced; and that moment may without difficulty be prolonged by interjecting a circumstance between the substantive and its connections. This liberty therefore, however frequent, will scarce alone be sufficient to denominate a style *inverted*. The case is very different, where the word that occupies the first place denotes a quality or an action; for as these cannot be conceived without a subject, they cannot without greater violence be separated from the subject that follows; and for that reason, every such separation by means of an interjected circumstance belongs to an inverted style.

To illustrate this doctrine, examples are necessary. In the following, the word first introduced does not imply a relation:

— — — Nor Eve to iterate
Her former trespasses fear'd.

— — — Hunger and thirst at once,
Powerful persuaders, quicken'd at the scent
Of that alluring fruit, urg'd me so keen.

Moon that now meet'th the orient sun, now shi'ft
With the fix'd stars, fixed in their orb that flies,
And ye five other wand'ring fires that move
In mystic dance not without song, resound
His praise.

Where the word first introduced imports a relation, the disjunction will be found more violent:

Of man's first disobedience, and the fruit
Of that forbidden tree, whose mortal taste
Brought death into the world, and all our wo,
With loss of Eden, till one greater man
Restore us, and regain the blissful seat,
Sing heav'nly muse.

— — — Upon the firm opacous globe
Of this round world, whose first convex divides
The luminous inferior orbs, inclos'd
From chaos and th' inroad of darkness old,
Satan alighted walks.

— — — On a sudden open fly,
With impetuous recoil and jarring sound,
Th' infernal doors.

— — — Wherein remain'd,
For what could else? to our almighty foe
Clear victory, to our part loss and rout.

Language

Language.

Language would have no great power, were it confined to the natural order of ideas: By inversion a thousand beauties may be compassed, which must be relinquished in a natural arrangement.

Rules. 1. In the arrangement of a period, as well as in a right choice of words, the first and great object being perspicuity, the rule above laid down, that perspicuity ought not to be sacrificed to any other beauty, holds equally in both. Ambiguities occasioned by a wrong arrangement are of two sorts; one where the arrangement leads to a wrong sense, and one where the sense is less doubtful. The first, being the more culpable, shall take the lead, beginning with examples of words put in a wrong place.

"How much the imagination of such a presence must exalt a genius, we may observe *merely* from the influence which an ordinary presence has over men."

Shafesb. This arrangement leads to a wrong sense: the adverb *merely* seems by its position to affect the preceding word; whereas it is intended to affect the following words, *an ordinary presence*; and therefore the arrangement ought to be thus: "How much the imagination of such a presence must exalt a genius, we may observe from the influence which an ordinary presence *merely* has over men." [Or better],—"which even an ordinary presence has over men."

"Sixtus the Fourth was, if I mistake not, a great collector of books at least." *Boling.* The expression here leads evidently to a wrong sense; the adverb *at least*, ought not to be connected with the substantive *books*, but with *collector*, thus: "Sixtus the Fourth was a great collector at least, of books."

Speaking of Louis XIV. "If he was not the greatest king, he was the best actor of majesty at least that ever filled a throne." *Id.* Better thus: "If he was not the greatest king, he was at least the best actor of majesty," &c. This arrangement removes the wrong sense occasioned by the juxtaposition of *majesty* and *at least*.

The following examples are of a wrong arrangement of members.

"I have confined myself to those methods for the advancement of piety, which are in the power of a prince limited like ours by a strict execution of the laws." *Swift.* The structure of this period leads to a meaning which is not the author's, viz. power limited by a strict execution of the laws. That wrong sense is removed by the following arrangement: "I have confined myself to those methods for the advancement of piety, which, by a strict execution of the laws, are in the power of a prince limited like ours."

"This morning, when one of lady Lizard's daughters was looking over some hoods and ribbands brought by her tirewoman, with great care and diligence, I employed no less in examining the box which contained them." *Guardian.* The wrong sense occasioned by this arrangement, may be easily prevented by varying it thus: "This morning, when, with great care and diligence, one of Lady Lizard's daughters was looking over some hoods and ribbands," &c.

"A great stone that I happened to find after a long search by the sea-shore, served me for an anchor." *Swift.* One would think that the search was confined to the sea-shore; but as the meaning is, that the great

stone was found by the sea-shore, the period ought to be arranged thus: "A great stone that, after a long search, I happened to find by the sea-shore, served me for an anchor."

Next of a wrong arrangement where the sense is left doubtful; beginning, as in the former sort, with examples of a wrong arrangement of words in a member.

"These forms of conversation *by degrees* multiplied and grew troublesome." *Speñ.* Here it is left doubtful whether the modification *by degrees* relates to the preceding member or to what follows: it should be, "These forms of conversation multiplied by degrees."

"Nor does this false modesty expose us *only* to such actions as are indiscreet, but very often to such as are highly criminal." *Speñ.* The ambiguity is removed by the following arrangement: "Nor does this false modesty expose us to such actions only as are indiscreet," &c.

"The empire of Blefuscu is an island situated to the north-east side of Lilliput, from whence it is parted *only* by a channel of 800 yards wide." *Swift.* The ambiguity may be removed thus: ——— "from whence it is parted by a channel of 800 yards wide only."

In the following examples the sense is left doubtful by wrong arrangement of members.

"The minister who grows less by his elevation, like a little statue placed on a mighty pedestal, will always have his jealousy strong about him." *Bolingb.* Here, so far as can be gathered from the arrangement, it is doubtful, whether the object introduced by way of simile relates to what goes before or to what follows. The ambiguity is removed by the following arrangement: "The minister who, like a little statue placed on a mighty pedestal, grows less by his elevation, will always," &c.

Speaking of the superstitious practice of locking up the room where a person of distinction dies: "The knight, seeing his habitation reduced to so small a compass, and himself in a manner shut out of his own house, upon the death of his mother, ordered all the apartments to be flung open, and exorcised by his chaplain." *Speñ.* Better thus: "The knight, seeing his habitation reduced to so small a compass, and himself in a manner shut out of his own house, ordered, upon the death of his mother, all the apartments to be flung open."

Speaking of some indecencies in conversation: "As it is impossible for such an irrational way of conversation to last long among a people that make any profession of religion, or show of modesty, if the country-gentlemen get into it, they will certainly be left in the lurch." *Id.* The ambiguity vanishes in the following arrangement: ——— "the country-gentlemen, if they get into it, will certainly be left in the lurch."

"And since it is necessary that there should be a perpetual intercourse of buying and selling, and dealing upon credit, where fraud is permitted or connived at, or *but* no law to punish it, the honest dealer is always undone, and the knave gets the advantage." *Swift.* Better thus: "And since it is necessary that there should be a perpetual intercourse of buying and selling, and dealing upon credit, the honest dealer,

Language. where fraud is permitted or connived at, or hath no law to punish it, is always undone, and the knave gets the advantage."

From these examples, the following observation will occur: That a circumstance ought never to be placed between two capital members of a period; for by such situation it must always be doubtful, so far as we gather from the arrangement, to which of the two members it belongs: where it is interjected, as it ought to be, between parts of the member to which it belongs, the ambiguity is removed, and the capital members are kept distinct, which is a great beauty in composition. In general, to preserve members distinct that signify things distinguished in the thought, the best method is, to place first in the consequent member, some word that cannot connect with what precedes it.

If it shall be thought, that the objections here are too scrupulous, and that the defect of perspicuity is easily supplied by accurate punctuation; the answer is, That punctuation may remove an ambiguity, but will never produce that peculiar beauty which is perceived when the sense comes out clearly and distinctly by means of a happy arrangement. Such influence has this beauty, that, by a natural transition of perception, it is communicated to the very sound of the words, so as in appearance to improve the music of the period. But as this curious subject comes in more properly elsewhere, it is sufficient at present to appeal to experience, that a period, so arranged as to bring out the sense clear, seems always more musical than where the sense is left in any degree doubtful.

The next rule is, That words expressing things connected in the thought, ought to be placed as near together as possible. This rule is derived immediately from human nature, prone in every instance to place together things in any manner connected: where things are arranged according to their connections, we have a sense of order; otherwise we have a sense of disorder, as of things placed by chance: and we naturally place words in the same order in which we would place the things they signify. The bad effect of a violent separation of words or members thus intimately connected, will appear from the following examples.

"For the English are naturally fanciful, and very often disposed, by that gloominess and melancholy of temper which is so frequent in our nation, to many wild notions and visions, to which others are not so liable." *Spea.* Here the verb or assertion is, by a pretty long circumstance, violently separated from the subject to which it refers: this makes a harsh arrangement; the less excusable that the fault is easily prevented by placing the circumstance before the verb, after the following manner: "For the English are naturally fanciful, and by that gloominess and melancholy of temper which is so frequent in our nation, are often disposed to many wild notions, &c."

"From whence we may date likewise the rivalry of the house of France, for we may reckon that of Valois and that of Bourbon as one upon this occasion, and the house of Austria, that continues at this day, and has oft cost so much blood and so much treasure in the course of it." *Bolingbr.*

"It cannot be impertinent or ridiculous therefore in

such a country, whatever it might be in the abbot of *Language.* St Real's, which was Savoy, I think; or in Peru, under the incas, where Garcilasso de la Vega says it was lawful for none but the nobility to study—for men of all degrees to instruct themselves in those affairs wherein they may be actors, or judges of those that act, or controllers of those that judge." *Ibid.*

"If Scipio, who was naturally given to women, for which anecdote we have, if I mistake not, the authority of Polybius, as well as some verses of Nevius preserved by Aulus Gellius, had been educated by Olympias at the court of Philip, it is improbable that he would have restored the beautiful Spaniard." *Ibid.*

If any one have a curiosity for more specimens of this kind, they will be found without number in the works of the same author.

A pronoun, which saves the naming a person or thing a second time, ought to be placed as near as possible to the name of that person or thing. This is a branch of the foregoing rule; and with the reason there given, another occurs, viz. That if other ideas intervene, it is difficult to recal the person or thing by reference.

"If I had leave to print the Latin letters transmitted to me from foreign parts, they would fill a volume, and be a full defence against all that Mr Partridge, or his accomplices of the Portugal inquisition, will be ever able to object; *who*, by the way, are the only enemies my predictions have ever met with at home or abroad." Better thus:—"and be a full defence against all that can be objected by Mr Partridge, or his accomplices of the Portugal inquisition; *who*, by the way, are," &c.

"There being a round million of creatures in human figure, throughout this kingdom, *whose* whole subsistence," &c. *Swift.* Better: "There being, throughout this kingdom, a round million of creatures in human figure, whose whole subsistence," &c.

The following rule depends on the communication of emotions to related objects; a principle in human nature that hath an extensive operation: and we find this operation, even where the objects are not otherwise related than by juxtaposition of the words that express them. Hence, to elevate or depress an object, one method is, to join it in the expression with another that is naturally high or low: witness the following speech of Eumenes to the Roman senate.

"Causam veniendi sibi Romam fuisse, præter cupiditatem visendi *deos hominesque*, quorum beneficio in ea fortuna esset, supra quam ne optare quidem auderet, etiam ut coram moneret senatum ut Persei conatus obviam iret." *Livy.* To join the Romans with the gods in the same enunciation, is an artful stroke of flattery, because it tacitly puts them on a level.

On the other hand, the degrading or vilifying an object, is done successfully by ranking it with one that is really low: "I hope to have this entertainment in readiness for the next winter; and doubt not but it will please more than the opera or puppet-show." *Spea.*

"Manifold have been the judgments which Heaven from time to time, for the chastisement of a sinful people, has inflicted upon whole nations. For when the degeneracy becomes common, it is but just the punishment should be general. Of this kind, in our own unfortunate country, was that destructive pestilence, *whose*

Language. whose mortality was so fatal as to sweep away, if Sir William Petty may be believed, five millions of Christian souls, besides women and Jews." *Arbutnot.*

"Such also was that dreadful conflagration ensuing in this famous metropolis of London, which consumed, according to the computation of Sir Samuel Moreland, 100,000 houses, not to mention churches and stables." *Ibid.*

"But on condition it might pass into a law, I would gladly exempt both lawyers of all ages, subaltern and field-officers, young heirs, dancing-masters, pick-pockets, and players." *Swift.*

Sooner let earth, air, sea, to chaos fall,
Men, monkeys, lap-dogs, parrots, perish all.

Rape of the Lock.

Circumstances in a period resemble small stones in a building, employed to fill up vacuities among those of a larger size. In the arrangement of a period, such under-parts crowded together make a poor figure; and never are graceful but when interspersed among the capital parts,

"It is likewise urged, that there are, by computation, in this kingdom, above 10,000 parsons, whose revenues, added to those of my lords the bishops, would suffice to maintain, &c." *Swift.* Here two circumstances, viz. *by computation*, and *in this kingdom*, are crowded together unnecessarily. They make a better appearance separated in the following manner: "It is likewise urged, that in this kingdom there are by computation, above 10,000 parsons," &c.

If there be room for a choice, the sooner a circumstance is introduced, the better; because circumstances are proper for that coolness of mind, with which we begin a period as well as a volume: in the progress, the mind warms, and has a greater relish for matters of importance. When a circumstance is placed at the beginning of the period, or near the beginning, the transition from it to the principal subject is agreeable: it is like ascending, or going upward. On the other hand, to place it late in the period has a bad effect; for after being engaged in the principal subject, one is with reluctance brought down to give attention to a circumstance. Hence evidently the preference of the following arrangement, "Whether in any country a choice altogether unexceptionable has been made, seems doubtful;" before this other, "Whether a choice altogether unexceptionable has in any country been made," &c.

For this reason the following period is exceptionable in point of arrangement. "I have considered formerly, with a good deal of attention, the subject upon which you command me to communicate my thoughts to you." *Boling.* Which, with a slight alteration, may be improved thus: "I have formerly, with a good deal of attention, considered the subject," &c.

Swift, speaking of a virtuous and learned education: "And although they may be, and too often are, drawn by the temptations of youth, and the opportunities of a large fortune, into some irregularities, *when they come forward into the great world*; it is ever with reluctance and compunction of mind, because their bias to virtue still continues." Better; "And although, *when they come forward into the great world*, they may be, and too often," &c.

Language. In arranging a period, it is of importance to determine in what part of it a word makes the greatest figure, whether at the beginning, during the course, or at the close. The breaking silence rouses the attention, and prepares for a deep impression at the beginning: the beginning, however, must yield to the close; which being succeeded by a pause, affords time for a word to make its deepest impression. Hence the following rule, That to give the utmost force to a period, it ought, if possible, to be closed with that word which makes the greatest figure. The opportunity of a pause should not be thrown away upon accessories, but reserved for the principal object, in order that it may make a full impression: which is an additional reason against closing a period without a circumstance. There are, however, periods that admit not such a structure; and in that case the capital word ought, if possible, to be placed in the front, which next to the close is the most advantageous for making an impression. Hence, in directing our discourse to a man of figure, we ought to begin with his name; and one will be sensible of a degradation when this rule is neglected, as it frequently is for the sake of verse. We give the following examples.

Integer vitæ, scelerisque purus,
Non eget Mauri jaculis, neque arcu,
Nec venenatis grævida sagittis,
Fusce, phœtra. *Horat. Carm. l. 1. ode 22.*

Je crains Dieu, cher Abner, et n'ai point d'autre crainte.

In these examples, the name of the person addressed to, make a mean figure, being like a circumstance slipped into a corner. That this criticism is well founded, we need no other proof than Addison's translation of the last example:

O Abner! I fear my God, and I fear none but him. *Guardian, n° 117.*

O father, what intends thy hand, she cry'd,
Against thy only son? What fury, O son,
Possesses thee to bend that mortal dart
Against thy father's head?

Paradise lost, book ii. l. 727.

Every one must be sensible of a dignity in the invocation at the beginning, which is not attained by that in the middle. It is not meant, however, to censure this passage: on the contrary, it appears beautiful, by distinguishing the respect that is due to a father from that which is due to a son.

The substance of what is said in this and the foregoing section, upon the method of arranging words in a period, so as to make the deepest impression with respect to sound as well as signification, is comprehended in the following observation: That order of words in a period will always be the most agreeable, where, without obscuring the sense, the most important images, the most sonorous words, and the longest members, bring up the rear.

Hitherto of arranging single words, single members, and single circumstances. But the enumeration of many particulars in the same period is often necessary: and the question is, In what order they should be placed? And, first, with respect to the enumerating

Language. ting particulars of equal rank: As there is no cause for preferring any one before the rest, it is indifferent to the mind in what order they be viewed; therefore it is indifferent in what order they be named. 2dly, If a number of objects of the same kind, differing only in size, are to be ranged along a straight line, the most agreeable order to the eye is that of an increasing series: in surveying a number of such objects, beginning at the least, and proceeding to greater and greater, the mind swells gradually with the successive objects, and in its progress has a very sensible pleasure. Precisely for the same reason, words expressive of such objects ought to be placed in the same order. The beauty of this figure, which may be termed a *climax in sense*, has escaped Lord Bolingbroke in the first member of the following period: "Let but one, great, brave, disinterested, active man arise, and he will be received, followed, and almost adored." The following arrangement has sensibly a better effect: "Let but one brave, great, active, disinterested man arise," &c. Whether the same rule ought to be followed in enumerating men of different ranks, seems doubtful: on the one hand, a number of persons presented to the eye in form of an increasing series, is undoubtedly the most agreeable order; on the other hand, in every list of names, we set the person of the greatest dignity at the top, and descend gradually through his inferiors. Where the purpose is to honour the persons named according to their rank, the latter ought to be followed; but every one who regards himself only, or his reader, will choose the former order. 3dly, As the sense of order directs the eye to descend from the principal to its greatest accessory, and from the whole to its greatest part, and in the same order through all the parts and accessories, till we arrive at the minutest; the same order ought to be followed in the enumeration of such particulars.

When force and liveliness of expression are demanded, the rule is, to suspend the thought as long as possible, and to bring it out full and entire at the close: which cannot be done but by inverting the natural arrangement. By introducing a word or member before its time, curiosity is raised about what is to follow; and it is agreeable to have our curiosity gratified at the close of the period: the pleasure we feel resembles that of seeing a stroke exerted upon a body by the whole collected force of the agent. On the other hand, where a period is so constructed as to admit more than one complete close in the sense, the curiosity of the reader is exhausted at the first close, and what follows appears languid or superfluous: his disappointment contributes also to that appearance, when he finds, contrary to expectation, that the period is not yet finished. Cicero, and after him Quintilian, recommend the verb to the last place. This method evidently tends to suspend the sense till the close of the period; for without the verb the sense cannot be complete: and when the verb happens to be the capital word, which it frequently is, it ought at any rate to be the last, according to another rule above laid down. The following period is placed in its natural order: "Were instruction an essential circumstance in epic poetry, I doubt whether a single instance could be given of this species of composition in any language." The period thus arranged admits a full close upon the word *composition*; after which it goes on lan-

guidly, and closes without force. This blemish will be avoided by the following arrangement: "Were instruction an essential circumstance in epic poetry, I doubt whether, in any language, a single instance could be given of this species of composition."

"Some of our most eminent divines have made use of this Platonic notion, as far as it regards the subsistence of our passions after death, with great beauty and strength of reason." *Spec.* Better thus: "Some of our most eminent divines have, with great beauty and strength of reason, made use of this Platonic notion," &c.

"Men of the best sense have been touched, more or less, with these groundless horrors and presages of futurity, upon surveying the most different works of nature." *Ib.* Better, "Upon surveying the most indifferent works of nature, men of the best sense," &c.

"She soon informed him of the place he was in; which, notwithstanding all its horrors, appeared to him more sweet than the bower of Mahomet, in the company of his Balsora." *Guardian.* Better, "She soon, &c. which appeared to him, in the company of his Balsora, more sweet than the bower of Mahomet."

None of the rules for the composition of periods are more liable to be abused than those last mentioned; witness many Latin writers, among the moderns especially, whose style, by inversions too violent, is rendered harsh and obscure. Suspension of the thought till the close of the period, ought never to be preferred before perspicuity. Neither ought such suspension to be attempted in a long period; because in that case the mind is bewildered amidst a profusion of words: a traveller, while he is puzzled about the road, relishes not the finest prospect: "All the rich presents which Astyages had given him at parting, keeping only some Median horses, in order to propagate the breed of them in Persia, he distributed among his friends whom he left at the court of Ecbatana." *Trav. of Cyrus.*

III. *Beauties from a resemblance between Sound and Signification.* There being frequently a strong resemblance of one sound to another, it will not be surprising to find an articulate sound resembling one that is not articulate: thus the sound of a bow-string is imitated by the words that express it:

— — — — — The string let fly,
Twang'd short and sharp, like the shrill swallow's cry.
Odyssey, xxi. 449.

The sound of felling trees in a wood:

Loud sounds the ax, redoubling strokes on strokes,
On all sides round the forest hurls her oaks
Headlong. Deep echoing groan the thickets brown,
Then rustling, crackling, crashing, thunder down.
Iliad, xxiii. 144.

But when loud' surges lash the sounding shore,
The hoarse rough verse should like the torrent roar.
Pope's Essay on Criticism, 369.

Dire Scylla there a scene of horror forms,
And here Charybdis fills the deep with storms:
When the tide rushes from her rumbling caves,
The rough rock roars; tumultuous boil the waves.
Pope.

No person can be, at a loss about the cause of this beauty; it is obviously that of imitation.

That

Language.

That there is any other natural resemblance of sound to signification, must not be taken for granted. There is no resemblance of sound to motion, nor of sound to sentiment. We are, however, apt to be deceived by artful pronunciation; the same passage may be pronounced in many different tones, elevated or humble, sweet or harsh, brisk or melancholy, so as to accord with the thought or sentiment: such concord must be distinguished from that concord between sound and sense which is perceived in some expressions independent of artful pronunciation; the latter is the poet's work, the former must be attributed to the reader. Another thing contributes still more to the deceit: in language, sound and sense being intimately connected, the properties of the one are readily communicated to the other; for example, the quality of grandeur, of sweetness, or of melancholy, though belonging to the thought solely, is transferred to the words, which by that means resemble in appearance the thought that is expressed by them. That there may be a resemblance of articulate sounds to some that are not articulate, is self-evident; and that in fact there exist such resemblances successfully employed by writers of genius, is clear from the foregoing examples, and from many others that might be given. But we may safely pronounce, that this natural resemblance can be carried no farther; the objects of the different senses differ so widely from each other, as to exclude any resemblance; sound in particular, whether articulate or inarticulate, resembles not in any degree taste, smell, nor motion; and as little can it resemble any internal sentiment, feeling, or emotion. But must we then admit, that nothing but sound can be imitated by sound? Taking imitation in its proper sense, as importing a resemblance between two objects, the proposition must be admitted: and yet in many passages that are not descriptive of sound, every one must be sensible of a peculiar concord between the sound of the words and their meaning. As there can be no doubt of the fact, what remains is to enquire into its cause.

Resembling causes may produce effects that have no resemblance; and causes that have no resemblance may produce resembling effects. A magnificent building, for example, resembles not in any degree an heroic action; and yet the emotions they produce are concordant, and bear a resemblance to each other. We are still more sensible of this resemblance in a song, when the music is properly adapted to the sentiment: there is no resemblance between the thought and sound; but there is the strongest resemblance between the emotion raised by music tender and pathetic, and that raised by the complaint of an unsuccessful lover. Applying this observation to the present subject, it appears, that, in some instances, the sound even of a single word makes an impression resembling that which is made by the thing it signifies: witness the word *running*, composed of two short syllables; and more remarkably the words *rapidity*, *impetuosity*, *precipitation*. Brutal manners produce in the spectator an emotion not unlike what is produced by a harsh and rough sound; and hence the beauty of the figurative expression, *rugged manners*. Again, the word *little*, being pronounced with a very small aperture of the

mouth, has a weak and faint sound, which makes an impression resembling that made by a diminutive object. This resemblance of effects is still more remarkable where a number of words are connected in a period: words pronounced in succession make often a strong impression; and when this impression happens to accord with that made by the sense, we are sensible of a complex emotion, peculiarly pleasant; one proceeding from the sentiment, and one from the melody or sound of the words. But the chief pleasure proceeds from having these two concordant emotions combined in perfect harmony, and carried on in the mind to a full close. Except in the single case where sound is described, all the examples given by critics of sense being imitated in sound, resolve into a resemblance of effects: emotions raised by sound and signification may have a resemblance; but sound itself cannot have a resemblance to any thing but sound.

Proceeding now to particulars, and beginning with those cases where the emotions have the strongest resemblance, we observe, first, That by a number of syllables in succession, an emotion is sometimes raised, extremely similar to that raised by successive motion; which may be evident even to those who are defective in taste, from the following fact, that the term *movement* in all languages is equally applied to both. In this manner, successive motion, such as walking, running, galloping, can be imitated by a succession of long or short syllables, or by a due mixture of both: for example, slow motion may be justly imitated in a verse where long syllables prevail; especially when aided by a slow pronunciation:

Illi inter sese magna vi brachia tollunt.

Georg. iv. 174.

On the other hand, swift motion is imitated by a succession of short syllables;

Quadrupedante putrem sonitu quatit ungula campum.

Again:

Radit iter liquidum, celeres neque commovet alas.

Thirdly, A line composed of monosyllables makes an impression by the frequency of its pauses, similar to what is made by laborious interrupted motion:

*With many a weary step, and many a groan,
Up the high hill he heaves a huge round stone.*

Odyssey, xi. 736.

First march the heavy mules securely slow;
O'er hills, o'er dales, o'er craggs, o'er rocks they go.

Iliad, xxiii. 138.

Fourthly, The impression made by rough sounds in succession, resembles that made by rough or tumultuous motion: on the other hand, the impression of smooth sounds resembles that of gentle motion. The following is an example of both.

*Two craggy rocks projecting to the main,
The roaring winds tempestuous rage restrain;
Within, the waves in softer murmurs glide,
And ships secure without their haulsers ride.*

Odyssey, iii. 118.

Another example of the latter:

Sofa

Language. Soft is the strain when Zephyr gently blows,
And the smooth stream in smoother numbers flows.
Essay on Criticism, 366.

Fifthly, Prolonged motion is expressed in an Alexandrine line. The first example shall be of a slow motion prolonged :

A needless Alexandrine ends the song;
That, like a wounded snake, drags its slow length
along.

Ib. 356.

The next example is of forcible motion prolonged :

The waves behind impel the waves before,
Wide-rolling, foaming high, and tumbling to the shore.
Iliad, xiii. 1004.

The last shall be of rapid motion prolonged :

Not so when swift Camilla scours the plain,
Flies o'er the unbending corn, and skims along the
main.

Essay on Criticism, 373.

Again, speaking of a rock torn from the brow of a
mountain :

Still gathering force, it smokes, and, urg'd amain,
Whirls, leaps, and thunders down impetuous to the
plain.

Iliad, xiii. 197.

Sixthly, A period consisting mostly of long syllables, that is, of syllables pronounced slow, produceth an emotion resembling faintly that which is produced by gravity and solemnity. Hence the beauty of the following verse :

Olli sedato respondet corde Latinus.

It resembles equally an object that is insipid and uninteresting.

Tædet quotidianarum harum formarum.

Terence.

Seventhly, A slow succession of ideas is a circumstance that belongs equally to settled melancholy, and to a period composed of polysyllables pronounced slow; and hence, by similarity of emotions, the latter is imitative of the former :

In those deep solitudes, and awful cells,
Where heav'nly-pensive Contemplation dwells,
And ever-musing Melancholy reigns.

Pope, Eloisa to Abelard.

Eighthly, A long syllable made short, or a short syllable made long, raises, by the difficulty of pronouncing contrary to custom, a feeling similar to that of hard labour :

When Ajax strives some rock's vast weight to throw,
The line too labours, and the words move slow.

Essay on Criticism, 370.

Ninthly, Harsh or rough words pronounced with difficulty, excite a feeling similar to that which proceeds from the labour of thought to a dull writer :

Nº 174.

Just writes to make his barrenness appear,
And strains from hard-bound brains eight lines a-year.
Pope's Epistle to Dr Arbuthnot, l. 181.

We shall close with one example more, which of all makes the finest figure. In the first section mention is made of a climax in sound; and in the second of a climax in sense. It belongs to the present subject to observe, that when these coincide in the same passage, the concordance of sound and sense is delightful: the reader is conscious of pleasure not only from the two climaxes separately, but of an additional pleasure from their concordance, and from finding the sense so justly imitated by the sound. In this respect, no periods are more perfect than those borrowed from Cicero in the first section.

The concord between sense and sound is not less agreeable in what may be termed an *anticlimax*, where the progress is from great to little; for this has the effect to make diminutive objects appear still more diminutive. Horace affords a striking example :

Parturiunt montes, nascetur ridiculus mus.

The arrangement here is singularly artful: the first place is occupied by the verb, which is the capital word by its sense as well as sound: the close is reserved for the word that is the meanest in sense as well as in sound: and it must not be overlooked, that the resembling sounds of the two last syllables give a ludicrous air to the whole.

In this article we have mentioned none of the beauties of language but what arise from words taken in their proper sense. Beauties that depend on the metaphorical and figurative power of words, are treated under the separate articles of FIGURES, PERSONIFICATION, APOSTROPHE, HYPERBOLE, METAPHOR, &c. See also ORATORY.

Purity of LANGUAGE. Both the Greeks and Romans were particularly careful of preserving the purity of their language. It seems amongst the Romans to have been a point which they thought worthy the attention of the state itself; for we find the Cumeans not daring to make use of the Latin language in their public acts without having first obtained leave in form. Tiberius himself would not hazard the word *monopolium* in the senate without making an excuse for employing a foreign term. Seneca gives it as a certain maxim, that wherever a general false taste in style and expression prevails, it is an infallible sign of a corruption of manners in that people: A liberty of introducing obsolete words, or forming new ones, is a mark, he thinks, of an equal licentiousness of the moral kind. Accordingly it is observed, there are scarce more than eight or ten instances of new words to be produced from the most approved Roman writers, in the course of two or three centuries. If this mode of reasoning concerning the morals of the state was introduced and applied in our own country, no nation on the face of the earth could appear more abandoned; for no nation is more fond of adopting new words, though our language is sufficiently copious. This delicacy of Seneca appears to be carried a little too far, and his manner of estimating the morals of the people must be a little fallacious. The Greeks were very remarkable

Langued for their discernment of provincialisms, especially the Athenians, whose dialect was inconceivably sweet and elegant.

||
Languet.

LANGUED, in heraldry, expresses such animals whose tongue, appearing out of the mouth, is borne of a different colour from the rest of the body.

LANGUEDOC, a large and maritime province of France; bounded on the north by Quercy, Rouerque, Auvergne, and Lionnois; on the east by Dauphiny and Provence; on the west by Gascony; and on the south by the Mediterranean Sea and Roussillon. It is 225 miles in length, and 100 in breadth where broadest. The clergy are more rich and numerous here than in the rest of France, there being three archbishops and 20 bishops. Languedoc is divided into the Upper and Lower; and in general it is a very pleasant country, fertile in corn, fruits, and excellent wines; and the inhabitants carry on a considerable trade. There are many curious medicinal plants, with iron mines, quarries of marble, and turquoise stones. There is also a great deal of kelp, and on the heaths are considerable numbers of the kermes oak. The principal rivers are the Rhone, the Garonne, the Aude, the Tarn, the Allier, and the Loire. There are also a great number of mineral springs. Thoulouse is the capital town. This province is famous for the royal canal, which divides it in two, joining the Mediterranean with the Atlantic Ocean. This canal was undertaken in 1666, and finished in 1680; the mathematician who undertook it made a basin 400 yards long, 300 broad, and 7 feet deep, which is always kept full of water, and may be let out by means of a sluice on the side of the Mediterranean, as well as by another on the side of the Atlantic.

LANGUET (Hubert), born at Viteaux in Burgundy in 1518, gained great reputation by his learning and virtue in the 16th century. Having read one of Melancthon's books at Bologna, he conceived so high an esteem for the author, that he went to Wittenberg purposely to visit him; he arrived there in 1549, when he contracted a strict friendship with Melancthon, and embraced the Protestant religion. In 1565, he was one of the first counsellors of Augustus elector of Saxony, who employed him in several important affairs and negotiations. He was afterwards admitted to the confidence of William prince of Orange; and died at Antwerp, on the 30th of September 1581. We have many of his letters written in Latin to Sir Philip Sydney, to Camerarius the father and son, and to Augustus elector of Saxony, which have been several times reprinted, in three volumes; and there is also attributed to him a famous treatise, intitled, *Vindicia contra Tyrannos*, and other works. His life is written by Philibert de la Mare.

LANGUET (John Baptist Joseph), the celebrated vicar of St Sulpice at Paris, and a doctor of the Sorbonne, was born at Dijon in 1675. He was received into the Sorbonne in 1698; and attached himself to the community of St Sulpice, to which parish he was of great service. M. de la Chetardie the vicar, conscious of his talents, chose him for his curate, in which capacity he officiated near 10 years; and in 1714, succeeded to the vicarage. His parish-church being small and out of repair, he conceived the design of building a church suitable to the size of his parish, which he

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began with the sum of 100 crowns, but soon obtained considerable donations; and the duke of Orleans, regent of the kingdom, granted him a lottery, and laid the first stone of the porch in 1718. It was consecrated in 1745, after M. Languet had spared neither labour nor expence to render it one of the finest churches in the world both for architecture and ornament. Another work which did him no less honour was the *Maison de l'enfant Jesus*. This establishment consists of two parts; the first composed of about 35 poor ladies of good families, and the second of more than 400 poor women and children of town and country. The order and economy in this house, for the education and employment of so many persons, gave cardinal Fleury so high an idea of the vicar of St Sulpice, that he proposed to make him superintendant-general of all the hospitals in the kingdom; which, however, was declined. Never man took more pains than he did to procure charitable donations and legacies, which he distributed with admirable discretion: he is said from good authority to have disbursed near a million of livres to the poor annually. When there was a general dearth in 1725, he sold, in order to relieve the poor, his household goods, pictures, and some curious pieces of furniture that he had procured with difficulty; and when the plague raged at Marseilles, he sent large sums into Provence for the relief of the distressed. M. Languet was not only singular in this warm, disinterested, benevolent conduct, but also in another circumstance equally rare; and this was in the refusal of several bishoprics that were offered him: he resigned even his vicarage in 1748; but continued to preach every Sunday at his own parish-church, and to support the *Maison de l'enfant Jesus*, to his death, which happened in 1750. It is observed, that his piety and charity did not proceed from poverty of talents; for he was sensible and lively in conversation, and his genius often discovered itself in his agreeable repartees.

LANGUOR, among physicians, signifies great weakness and loss of strength, attended with a dejection of mind; so that the patients can scarce walk or even stand upright, but are apt to faint away.

LANHAM. See **LAVENHAM**.

LANIARD (from *Lanier*, Fr.), a short piece of cord or line fastened to several machines in a ship; and serving to secure them in a particular place, or to manage them more conveniently. Such are the laniards of the gun-ports, the laniard of the buoy, the laniard of the cat-hook, &c.—The principal laniards used in a ship, however, are those employed to extend the shrouds and stays of the masts by their communication with the dead-eyes, so as to form a sort of mechanical power resembling that of a tackle.—These laniards are fixed in the dead-eyes as follows: one end of the laniard is thrust through one of the holes of the upper dead-eye, and then knotted, to prevent it from drawing out; the other is then passed through one of the holes in the lower dead-eye, whence, returning upward, it is inserted through the second hole in the upper dead-eye, and next through the second in the lower dead-eye, and finally through the third holes in both dead-eyes. The end of the laniard being then directed upwards from the lowest dead-eye, is stretched as stiff as possible by the application of tackles; and that the several parts of it may slide with more

4 B

facility

Languet
||
Laniard.

Lanigerous
Lanius.

Lanius.

facility through the holes in the dead-eyes, it is well smeared with hog's-lard or tallow, so that the strain is immediately communicated to all the turns at once.

LANIGEROUS, an appellation given to whatever bears wool.

LANISTA, in antiquity, is sometimes used to signify an executioner; but more frequently for a master-gladicator, who taught the use of arms, and had always people under them ready to exhibit shows of that kind. For this purpose, they either purchased gladicators, or educated children, that had been exposed, in that art.

Plates
CCLXII. and
CCLXIII.

LANIUS, the SHRIKE, or *Butcher-bird*, in ornithology; a genus belonging to the order of accipitres, the characters of which are these: The beak is somewhat strait, with a tooth on each side towards the apex, and naked at the base; and the tongue is lacerated.

1. The excubitor, great cinereous shrike, or greater butcher-bird, is in length 10 inches. The plumage on the upper parts is of a pale ash-colour; the under, white: through the eyes there is a black stripe: the scapulars are white: the base of the greater quills is white, the rest black: the tail is somewhat cuneiform; the two middle feathers are black; the outmost on each side, white; those between are black, with the ends more or less white: the legs are black. Its bill is black, one inch long, and hooked at the end; the upper mandible furnished with a sharp process: the nostrils are oval, covered with black bristles pointing downwards: the muscles that move the bill are very thick and strong; which makes the head very large. This apparatus is quite requisite in a species whose method of killing its prey is so singular, and whose manner of devouring it is not less extraordinary: small birds it will seize by the throat, and strangle; which probably is the reason the Germans also call this bird *wurchangl*, or "the suffocating angel." It feeds on small birds, young nestlings, beetles, and caterpillars. When it has killed the prey, it fixes them on some thorn, and when thus spitted pulls them to pieces with its bill: on this account the Germans call it *thorntraer* and *thornfreker*. When confined in a cage, they will often treat their food in much the same manner, sticking it against the wires before they devour it.—This bird inhabits many parts of Europe and North America. The female makes its nest with heath and moss, lining it with wool and gossamer; and lays six eggs, about as big as those of a thrush, of a dull olive-green, spotted at the thickest end with black. In spring and summer it imitates the voices of other birds, by way of decoying them within reach, that it may destroy them; but beyond this, the natural note is the same throughout all seasons. If a trap-fall be baited with a living small bird, it proves a decoy, by which it may be taken in winter. It is observed to be mute when kept in a cage, though seemingly content.—In countries where they are plenty, the husbandmen value them, on supposition of their destroying rats, mice, and other vermin. They are supposed to live five or six years; and are often trained up for catching small birds in Russia. In Carniola they are migratory, coming in May and departing in September; which is the case also in respect to the few which are met with in England.

2. The collurio, or lesser butcher-bird, is seven

inches and a half in length. The irides are hazel; the bill resembles that of the preceding species: the head and lower part of the back are of a fine light grey: across the eyes from the bill runs a broad black stroke: the upper part of the back, and coverts of the wings, are of a bright ferruginous colour; the breast, belly, and sides, are of an elegant blossom colour: the two middle feathers of the tail are longest, and entirely black; the lower part of the others white, and the exterior webs of the outmost feather on each side wholly so. In the female, the stroke across the eyes is of a reddish brown; the head of a dull rust colour mixed with grey; the breast, belly, and sides, are of a dirty-white, marked with semicircular dusky lines: the tail is of a deep brown; the outward feather on each side excepted, whose exterior webs are white. It is rather larger than the male. This bird is much more common than the former species. Mr Latham suspects its being a bird of passage, never having seen it in winter. It lays six white eggs marked with a rufous brown circle towards the large end. The nest is generally in a hedge or low bush; near which, it is said, no small bird chooses to build; for it not only feeds on insects, but also on the young of other birds in the nest, taking hold of them by the neck, and strangling them, beginning to eat them first at the brain and eyes. It is fonder of grasshoppers and beetles than of other insects, which it eats by morsels, and, when satisfied, sticks the remainder on a thorn; when kept in a cage, it does the same against the wires of it, like the former species. It is called in the German language by a name signifying "great head," or "bull head," from the size of that part. It will also feed on sheep's kidneys, if in a cage, eating a whole one every day. Like the cinereous shrike, it only mocks the notes of other birds, having none of its own; and this merely, like that, to decoy. It is said to be in this imitative art an adept; if money is couated over at midnight in the place where one of these is kept, so as to make a jingling noise, it begins to imitate the same sound. When sitting on the nest, the female is soon discovered; for on the approach of any one, she sets up an horrible outcry.

3. The *cenilescens*, or fork-tailed Indian butcher-bird of Edwards, is in length about seven inches and a half: the bill is blackish brown, and bent; the upper mandible beset with black hairs turning forwards: the plumage on the upper parts of the body is a fine black, with a gloss of blue and in some lights green; the under parts are white: the greater quills and tail are of a ferruginous black; the tail is pretty much forked, and the outer feather spotted with dirty white. It inhabits Bengal, where it is called *jingab*. It is called also by the Indians the *king of the crows*, from its pursuing these birds from place to place with a great noise, and pecking them on the back till they escape.

4. The Antiguan shrike (or *Pie-griescbe d'Antigue* of Sonnerat) is about the size of a lark. Its bill is largo and black; the upper mandible very long, and the curvature so excessive that one would rather take it for a monstrosity than common to any one species: the irides are dusky: the head is black; the back, of a yellowish rufous colour: the throat and breast are white; the quills, and bastard wing-coverts, black; and the wings reach only to the beginning of the tail,

Tanais. which is very long and wedge-shaped; the two middle feathers are wholly black; the legs are dusky black. It inhabits Panay, one of the Philippine islands, but principally about Antigue, one of the provinces thereof.

5. The jocosus, or jocose shrike, is in length seven inches and a half. The bill is blackish, rather straighter than in most of the genus, and furnished only with a very fine notch near the tip: the crown of the head is black, except some long brown feathers, which form a kind of crest: the sides of the head, throat, and fore part of the neck, are white; from each corner of the mouth there is a black line, continued backwards; and under each eye is a small spot of lively red: the upper parts of the body are brown; the under parts, dirty white; the vent, rose-colour: on the lower part of the neck and breast there is a kind of a brown band: the quills are brown: the tail is greatly wedge-shaped, and in colour brown, except the four outer feathers on each side, which have white tips: the legs and claws are black. This is a Chinese bird, and called in those parts by the name of *kowkai-kon*. It feeds upon rice and insects, particularly cockroaches.

6. The infaustus, or rock-shrike, is in length seven inches and three quarters. The bill is about an inch long, and blackish: the head and neck are of a dark ash-colour, marked with small rufous spots: the upper part of the back is a dark brown; the lower much paler, inclining to ash, especially towards the tail: the quills and wing-coverts are dusky, with pale margins: the breast, and under parts of the body, are orange, marked with small spots, some white and others brown: the tail is three inches in length; the two middle feathers are brown, the others rufous: the legs are blackish: the wings and tail are even. This is the description of the female. The male is said to differ very little, except in being of a brighter colour. — This species is met with in many parts of Europe, from Italy on the one hand, to Russia on the other; and is found in some parts of Germany, the Alpine mountains, those of Tyrol, and such-like places. The manners of this bird seem disputed. Buffon says that it perches on a high stone, and as soon as a marksman appears with his gun, removes to a greater distance, and so on as often as he approaches; which renders this species difficult to come at. Brunnich and Linnæus, on the contrary, say that it is a bold bird, attending the traveller while at his meal, on purpose to feed on his scraps. It has an agreeable note of its own, approaching to that of the hedge-sparrow, and will also learn to imitate that of others. It makes the nest among the holes of the rocks, &c. hiding it with great art; and lays three or four eggs, feeding the young with worms and insects, on which it also feeds itself. It may be taken young from the nest, and brought up as the nightingale.

7. The faustus, or white-wreathed shrike, is about the size of a common thrush. Its bill is pale: the upper parts of the body are grey; the under ferruginous: from the eyes to the hind head there passes a whitish line, composed of numerous white feathers, rendering it truly characteristic: the wings are rounded; the quills brownish, with grey edges, which are crossed with numerous slender brown lines: the tail is rounded, brown, and crossed with numerous bars of darker brown: the legs are pale. This elegant species inhabits China, where it is known by the name of *whom-*

maj. It may be observed, among others, in Chinese paper-hangings, where the white line seems to encompass the back part of the head like a wreath.

8. The Dominican shrike (or *Pie-grièche Dominiquaine* of Sonnerat), is bigger than a sparrow, and rather longer. The bill is greyish, conical, and strong; the base beset with bristles, pointing forwards: the head, neck, breast, back, wings, and tail, are black; the belly and rump white: the wings reach near an inch beyond the middle of the tail: the thighs are black. It inhabits the Philippine islands, and is a bold courageous bird: it flies very quick, and with great rapidity; frequently hovering in the air like a swallow. It is a great enemy to the raven; to whom, though much bigger, he bids defiance, and even provokes him to combat: the battle often lasts half an hour, and ends with the retreat of the raven; rather, perhaps, from being teased out than much injured by the little enemy.

9. The nengeta (*Guirarou*, Buff.) is in length nine or ten inches. Its bill is dusky, and beset with bristles at the base: the irides are sapphire-coloured; and from the angles of the mouth, through the eyes, there runs a black streak: the upper parts of the body are of a dark brownish ash-colour; the under parts cinereous white: in the middle of the wing are a few white feathers: the quills and tail are nearly black; and all the feathers of the last, except the two middle ones, are obliquely tipped with white: the legs are of a dark ash-colour; the claws black. — These birds are found at Surinam and Brasil. They are common likewise at Guiana, where they frequent watery places, and are found in great numbers together. They are observed, at frequent intervals, to set up a great cry all together; which affords a happy and certain presage to the thirsty traveller, in the immense forests of Guiana, of water being at hand.

10. The tyrannus, or tyrant shrike, is about the size of a thrush. Its bill is a blackish brown, beset with bristles at the base: the irides are brown: the upper parts of the plumage grey brown; the under, white: the breast inclines to ash-colour: the head is blackish on the upper part; the base of the feathers on that part in the male is orange, but seldom visible except it erects the feathers, when there appears a streak of orange down the middle of the crown: the tail is brown, margined with rufous: the legs and claws are black brown. The female scarcely differs, except in the head; the base of the crown feathers being yellow instead of orange; the colours are not quite so deep, and it is a trifle less in size. It inhabits Virginia. — There is a variety which inhabits St Domingo and Jamaica. These birds are called *titiri*, *pipiri*, or *quiquiri*, from their cry, which resembles those words. The first is called the *black-headed* or *great-billed pipiri*; the second, the *yellow-headed pipiri* or *pipiri of passage*. The first though in plenty are seldom seen but in pairs; the second in great troops, about the month of August, when they are very fat, and killed in great numbers for the table, as their flesh is accounted good eating. — All authors agree in the manners of these birds, which are ferocious to a great degree while the hen is sitting: no bird whatever dare approach their nest: they will attack the first which comes near, without reserve, and usually come off conquerors. From hence by some they are called *king-birds*.

Lanius.

Lanius
||
Lanquinet.

The *Carolina tyrant* of Catesby is little, if at all, different from the preceding, in regard to specific character. But he says that it makes its nest rather exposed, on trees and bushes, frequently on the *sassafras*; whereas the *pipiris* make use of the hole of a tree, for the sake of concealing it. In *Carolina* it is a bird of passage, coming in spring, and making one nest in a year, which is commonly in June, and after bringing up its young, retires in autumn. These birds frequent also the red cedars; are seldom found in woods, but often in hedge rows and fences of fields, and for the most part within 200 yards of each other. They do not molest their own species; but the moment either crow, or even eagle, appears, all within reach join forces, and begin the attack in all parts of his body at once, never desisting till they have driven him to a great distance.

11. The *albus*, or white *Panayan shrike*, is about double the size of a lark. Its bill is black: the head, neck, back, belly, and shoulders, are white: the rest of the wings and tail black; and across the greater quills there is a white band: the legs are black. It inhabits the isle of *Panay*.

There are above 40 other species of this genus, besides many varieties.

LANNER, or LANNAR. See *FALCO*.

LANSDOWNE (Lord). See *GRANVILLE*.

LANQUINET, the name of a game at cards, of French origin.

It may be played at by any indiscriminate number of people, though a single pack of cards is used during the deal. The dealer, who possesses an advantage, shuffles the cards, and after they have been cut by another of the party, deals out two cards on his left hand, turning them up, then one for himself, and a fourth that he places on the table for the company, who is called the *rejouissance*. On this card any, or all the company, the dealer excepted, may put their money, which the dealer is compelled to answer. The dealer continues turning the cards upwards, one by one, till two of a sort come up, that is to say, two aces, two deuces, &c. which, to prevent mistakes, or their being considered as single cards, he places on each side of his own card; and as often as two, three, or the fourth sort of a card come up, he invariably places, as before mentioned, on each side of his own card. The company has a right to take and put money upon any single card, unless the dealer's card should happen to be double, which is often the case, by his card being the same as one of the two hand-cards, which he first dealt out on his left hand: thus he continues dealing till he brings either their cards or his own. Whilst the dealer's own card remains undrawn, he wins; and which ever card is turned up first, loses. If he deals out the two cards on his left hand, which are styled the *hand cards*, before his own, he is intitled to deal again. This advantage amounts to no more than his being exempted from losing, when he turns up a similar card to his own, immediately after he has turned up one for himself.

Lanquinet is often played without the *rejouissance*, the dealer giving every one of the party a card to put their money upon. It is also often played by dealing only two cards, one for the company and the other for the dealer.

It should likewise be observed, that a limitation is

generally fixed for the sum to be placed upon any card or number of cards, either in gold or silver, beyond which the dealer is not obliged to answer.

LANTANA, or INDIAN SAGE, in botany: A genus of the *angiospermia* order, belonging to the *didynamia* class of plants; and in the natural method ranking under the 40th order, *Personata*. The calyx is indistinctly quadridentated; the stigma as it were broken and turned back like a hoof; the fruit is a plum with a bilocular kernel. There are several species, consisting of shrubby exotics from Africa and America for the green-house or stove; growing to the height of a yard or two, and adorned with oblong, oval, and roundish simple leaves, with monopetalous, tubular, four-parted flowers of different colours. They may be propagated either by seeds or cuttings.—The *camara*, or wild sage, is remarkable for the beauty of its flowers; which are yellow, tinged with red. The *involutrata*, or sea-side sage, has small ash coloured leaves and a most agreeable smell. They are both natives of the West Indies, the former growing wild among the bushes, and the latter found near the sea. Their leaves, particularly those of the sea-side sage, are used by the black people in teas for colds, rheums, and weakness of the stomach.—There are seven other species.

LANTERN, or LANTHORN, a device to carry a candle in; being a kind of cover usually made of white iron, with sashes of some transparent matter, as glass, horn, &c. to transmit the light.

Dark LANTERN, one with only one opening, which may also be closed up when the light is to be entirely hid, or opened when there is occasion for the assistance of the light to discover some object.

Magic LANTERN, an optic machine, whereby little painted images are represented so much magnified, as to be accounted the effect of magic by the ignorant. See *DIOPTICS*, Art. x. p. 37.

LANTERN, in architecture, a little dome raised over the roof of a building to give light, and serve as a crowning to the fabric.

The term *lantern* is also used for a square cage of carpentry, placed over the ridge of a corridor or gallery, between two rows of shops, to illumine them, like that of the royal exchange London.

LANTERN, on ship-board, a well known machine, of which there are many in a ship, particularly for the purpose of directing the course of other ships in a fleet or convoy; such are the poop and top lanterns, &c.

Feast of LANTERNS, in China, is a celebrated feast held on the 15th day of the first month; so called from the infinite number of lanterns hung out of the houses and streets; which, it is said, is no less than two hundred millions. On this day are exposed lanterns of all prices, whereof some are said to cost 2000 crowns. Some of their grandees retrench somewhat every day out of their table, out of their dress, equipage, &c. to appear the more magnificent in lanterns. They are adorned with gilding, sculpture, painting, japanning, &c. And as to their size, it is extravagant; some being from 25 to 30 feet diameter: they represent halls and chambers, and two or three such machines together would make handsome houses; so that in China they are able to eat, lodge, receive visits, have balls, and act plays in a lantern. To illumine them, they should have bonfires; but as that would be inconvenient, they content themselves with lighting

Lantana,
Lantern.

LANIUS.

Plate CCLXII.

Dominican Shrike.



Antiguan Sh.



Jocose Sh.



A. Bell Pin. Wal. Sculptor fecit.

Lantern
||
Laocoon.

lighting up in them an infinite number of torches or lamps, which at a distance have a beautiful effect. In these they exhibit various kinds of shows, to divert the people. Besides these enormous lanterns, there is a multitude of others smaller, which usually consist of six faces or lights, each about four feet high, and one and a half broad, framed in wood finely gilt and adorned; over these they stretch a fine transparent silk, curiously painted with flowers, trees, and sometimes human figures: the painting is very extraordinary, and the colours extremely bright; and when the torches are lighted, they appear highly beautiful and surprising.

LANTERN-Fly, in natural history. See *FULGORA*.

LANUGO, the soft down of plants, like that growing on the fruit of the peach tree. See *HAIR*.

LAOCOON (fab. hist.), a son of Priam and Hecuba, or according to others of Antenor or of Capys. As being priest of Apollo, he was commissioned by the Trojans to offer a bullock to Neptune to render him propitious. During the sacrifice two enormous serpents issued from the sea, and attacked Laocoon's two sons who stood next to the altar. The father immediately attempted to defend his sons; but the serpents falling upon him squeezed him in their complicated wreathes, and he died in the greatest agonies. This punishment was said to have been inflicted upon him for dissuading the Trojans to bring into the city the fatal wooden horse which the Greeks had consecrated to Minerva, as also for his impiety in hurling a javelin against the sides of the horse as it entered within the walls. According to Hyginus, he suffered the above punishment for his marriage against the consent of Apollo, or, according to others, for his polluting the temple, by his commerce with his wife Antiope, before the statue of the god.

LAOCOON, in the history of the arts, is a celebrated monument of Greek sculpture executed in marble by Polydorus, Athenodorus, and Agesander, the three famous artists of Rhodes. This remain of antiquity was found at Rome in the ruins of the palace of Titus, in the beginning of the sixteenth century, under the pontificate of Julius II. and since deposited in the Farnese palace. Laocoon, the priest of Apollo and Neptune, is here represented with his two sons, with two hideous serpents clinging round his body, gnawing it, and injecting their poison: Virgil has given us the following description of the fact:

Serpens amplexus uterque

Implicat, & miseros morsu depascitur artus:

Corripunt, spirisque ligant ingentibus, & jam

Bis medium amplexi, bis collo squamea circum

Terga dati, superant capite & cervicibus altis.

This statue exhibits the most astonishing dignity and tranquillity of mind in the midst of the most excruciating torments: Pliny * says of it, that is, *opus omnibus, picturee & statuariae artis, praefendum*.

The Laocoon, Dr Gillies† observes, may be regarded as the triumph of Grecian sculpture; since bodily pain, the grossest and most ungovernable of all our passions, and that pain united with anguish and torture of mind, are yet expressed with such propriety and dignity, as afford lessons of fortitude superior to any taught in the schools of philosophy. The horrible shriek which Virgil's Laocoon emits is a proper circumstance for poetry, which speaks to the fancy by

images and ideas borrowed from all the senses, and has a thousand ways of ennobling its object; but the expression of this shriek would have totally degraded the statue. It is softened, therefore, into a patient sigh, with eyes turned to heaven in search of relief. The intolerable agony of suffering nature is represented in the lower part, and particularly in the extremities of the body; but the manly breast struggles against calamity. The contention is still more plainly perceived in his furrowed forehead; and his languishing paternal eye demands assistance, less for himself than for his miserable children, who look up to him for help.

LAODICÆA on the Lycus (anc. geog.), a town of Phrygia, at first called *Diospolis*, then *Rhoas*. It was built by Antiochus son of Stratonice, and called after his consort *Laodice*. It was long an inconsiderable place; but increased toward the age of Augustus Cæsar, after having suffered in a siege from Mithridates. The fertility of the soil, and the good fortune of some of its citizens, raised it to greatness. Hiero, who adorned it with many offerings, left the people his heir to more than 2000 talents. After that benefactor followed Zeno, the rhetorician; and his son Polemo, as renowned a sophist as ever lived. This person flourished at Smyrna; but was buried here by the Syrian gate, near which were the sepulchres or coffins of his ancestors. Laodicea, though inland, grew more potent than the cities on the coast, and became one of the largest towns in Phrygia. It was often damaged by earthquakes, and restored by its own opulence or by the munificence of the Roman emperors. These resources failed, and the city, it is probable, became early a scene of ruin. About the year 1097 it was possessed by the Turks, and submitted to Ducas general of the Emperor Alexis. In 1120 the Turks sacked some of the cities of Phrygia by the Mæander, but were defeated by the Emperor John Comnenus, who took Laodicea, and built anew or repaired the walls. About 1161 it was again unfortified. Many of the inhabitants were then killed with their bishop, or carried with their cattle into captivity by the Turks. In 1190 the German emperor, Frederick Barbarossa, going by Laodicea with his army toward Syria on a crusade, was received so kindly, that he prayed on his knees for the prosperity of the people. About 1196 this region with Caria was dreadfully ravaged by the Turks. The Sultan, on the invasion of the Tartars in 1255, gave Laodicea to the Romans; but they were unable to defend it, and it soon returned to the Turks. It is now totally ruined and deserted. Several remains of its ancient grandeur are, however, still to be seen; particularly the ruins of two theatres and an amphitheatre.—The memory of this place is consecrated in scripture, being one of the seven churches to which St John in the Apocalypse addresses himself, commended by St Paul.

LAODICÆA on the sea (anc. geog.), according to Strabo, was a town of Seleucia in Syria, extremely well built, with a commodious harbour. The country about it yielded great quantities of wine. The city took its name from *Laodice*, mother of Seleucus the founder of it.

LAOMEDON, king of Troy, whose history is involved in fables. He was son of Ilus king of Troy; and married Strymo, called by some *Placia*, or

Laodicea,
Laomedon.

Chandler's
Asia.

* Lib.
xvi. c. 5.

† Hist. of
Greece, II.
177.

Laomedon
||
Lapathus.

Leucippe, by whom he had Podarces afterwards known by the name of *Priam*, and *Hesione*. He built the walls of Troy, and was assisted by Apollo and Neptune, whom Jupiter had banished from heaven, and condemned to be subservient to the will of Laomedon for one year. When the walls were finished, Laomedon refused to reward the labours of the gods; and soon after his territories were laid waste by the sea or Neptune, and his subjects were visited by a pestilence sent by Apollo. Sacrifices were offered to the offended divinities; but the calamities of the Trojans increased, and nothing could appease the gods, according to the words of the oracle, but annually to expose to a sea monster a Trojan virgin. Whenever the monster appeared, the marriageable maidens were assembled, and the lot decided which of them was doomed to death for the good of her country. When this calamity had continued for five or six years, the lot fell upon *Hesione* Laomedon's daughter. The king was unwilling to part with a daughter whom he loved with uncommon tenderness, but his refusal would irritate more strongly the wrath of the gods. In the midst of his fear and hesitation, *Hercules* came and offered to deliver the Trojans from this public calamity, if Laomedon would promise to reward him with a number of fine horses. The king consented; but when the monster was destroyed, he refused to fulfil his engagements, and *Hercules* was obliged to besiege Troy and take it by force of arms. Laomedon was put to death after a reign of 29 years; his daughter *Hesione* was given in marriage to *Telamon*, one of the conqueror's attendants; and *Podarces* was ransomed by the Trojans, and placed upon his father's throne. According to *Hyginus*, the wrath of Neptune and Apollo was kindled against Laomedon, because he refused to offer on their altars as a sacrifice all the first born of his cattle, according to a vow he had made.

LAON, a considerable town of the isle of France, and capital of the *Laonis*, with a castle and bishop's see. Its principal trade consists in corn and wine; and it is very advantageously seated on a mountain in E. Long. 3. 42. N. Lat. 49. 34.

LAOS, a kingdom of Asia beyond the Ganges; bounded on the north, by China; on the east, by Tonquin and Cochin-China; on the south, by Cambodia; and on the west, by the kingdom of Siam, and by the territories of the king of Ava. This country is full of forests, and abounds in rice, fruits, and fish. The inhabitants are well made, robust, of an olive complexion, and mild in their disposition; but very superstitious, and much addicted to women. Their principal occupation is tilling the ground and fishing. The king shows himself but twice a year, and has large revenues from the elephant's teeth found in his dominions. Their religion is a kind of idolatry, and much the same as in China. Langiona is the capital town.

LAPATHUS, LAPETHUS, or *Lepithus* (anc. geog.); a town of Cyprus, about the middle of its north side, with a port or station for ships, and a cognominal river. It was built by a colony of Phœnicians, according to *Scylax*; by *Belus* king of Tyre, according to *Alexander Ephesius*. According to *Strabo*, it was built by a colony of Spartans; and one of the nine kings resided here, the last of whom was *Pisistratus*,

who commanded the naval army of Alexander the Great. There was a temple here dedicated to Venus. The territory round it is called *Lapithia* by *Diodorus* and *Ptolemy*; *Lapithii*, the people, tainted with a degree of fatuity; hence *Lapethius* denotes *fatuus*, (*Hesychius*).—Now a village called *Lapitha*; but, according to the *Abbe Mariti*, the longest and most extensive in the island. Besides the advantage of a fine situation, it furnishes the best productions in the country; and though Cyprus is in general not very abundant in fruits, *Lapitha* seems a favoured spot in this respect, and may be called the garden of the island.

LAPIDARY, an artificer, who cuts precious stones.

The art of cutting precious stones is of great antiquity. The French have carried this art to a very great perfection, but not in any degree superior to the British.

There are various machines employed in the cutting of precious stones according to their quality. The diamond, which is extremely hard, is cut on a wheel of soft steel, turned by a mill, with diamond-dust, tempered with olive-oil, which also serves to polish it.

The oriental ruby, sapphire, and topaz, are cut on a copper-wheel with diamond dust tempered with olive-oil, and are polished on another copper-wheel with tripoli and water. The hyacinth, emerald, amethyst, garnets, agates, and other stones not of an equal degree of hardness with the other, are cut on a leaden wheel with smalt and water, and polished on a tin-wheel with tripoli. The turquois of the old and new rock, girasol, and opal, are cut and polished on a wooden wheel with tripoli also.

The lapidaries of Paris have been a corporation since the year 1290. It is governed by four jurats, who superintend their rights and privileges, visit the master-workmen, take care of the master-piece of workmanship, bind apprentices, and administer the freedom.

LAPIDARY is also used for a virtuoso skilled in the nature, kinds, &c. of precious stones; or a merchant who deals in them.

LAPIDARY Style, denotes the style proper for monumental or other inscriptions.

This is a kind of medium between prose and verse; the jejune and the brilliant are here equally to be avoided. Cicero has prescribed the rules of it: *Accedat oportet oratio varia, vehemens, plena spiritus. Omnium sententiarum gravitate, omnium verborum ponderibus, est utendum.*

The lapidary style, which was lost with the ancient monuments, has been retrieved at the beginning of this age by Count Emanuel Teforo: it is now used various ways at the beginning of books; and even epistles dedicatory are composed in it, of which we have no example among the ancients.

LAPIDESCENT, any thing which has the faculty of petrifying, or turning bodies to a stony nature. Naturalists speak of a lapidescent principle, a lapidescent spirit, a lapidescent juice, &c.

LAPIS, in general, is used to denote a stone of any kind.

LAPIS, in Roman antiquity, a geographical measure denoting a mile; because miles were distinguished by erecting a stone at the end of each; from the number

Lapidary
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Lapis.

Lapis
Lapland.

number marked on which, the length of way from Rome might be known. The device is by Plutarch ascribed to Caius Gracchus. This was more accurately executed by Augustus, who erected a gilt pillar in the forum, at which all the public ways of Italy, distinguished by stones, were terminated. The same thing was done in the Roman provinces. Hence the phrases *tertius lapis*, *centesimus lapis*, &c. for three, a hundred, &c. miles; and sometimes the ordinal number without *lapis*, as *ad duodecimum*, &c. at twelve miles distance.

LAPIS AFFRUS, in the natural history of the ancients, the name of a stone called also *sarcophagus*, from its power of consuming flesh. See *SARCOPHAGUS*.

LAPIS BONONIENSIS, the Bolognian stone. See *CHEMISTRY*, n° 1081, 1082.

LAPIS LAZULI. See *LAZULI*.

LAPIS LYNCEUS. See *LYNCEUS*.

LAPIS MUTABILIS. See *HYDROPHANES*.

LAPIS HEPATICUS. See *LIVER-STONE*.

LAPIS LYDIUS. See *TOUCH-STONE*, *TRAPP*, and *Lapis LYDIUS*.

LAPIS OBSIDIANUS. See *OBSIDIANUS* and *GALLINACEUS*.

LAPIS NEPHRITICUS. See *JADE-STONE*.

LAPIS SPECULARIS. See *SPECULARIS*.

LAPITHÆ, (anc. geog.) a people of Thessaly. See the next article.

LAPITHUS, (fab. hist.), a son of Apollo, by Stilbe. He was brother to Centaurus; and married Orsinome, daughter of Euronymus, by whom he had Phorbas and Periphas. The name of Lapithæ was given to the numerous children of Phorbas and Periphas, or rather to the inhabitants of the country of which they had obtained the sovereignty. The chief of the Lapithæ assembled to celebrate the nuptials of Perithous, one of their number. Among them were Theseus, Dryas, Hoplaus, Mopsus, Phalerus, Exadius, Prolochus, Titareus, &c. The Centaurs were also invited to partake the common festivity; and the amusements would have been harmless and innocent, had not one of the intoxicated Centaurs offered violence to Hippodamia the wife of Perithous. The Lapithæ resented the injury, and the Centaurs supported their companions; upon which the quarrel became universal, and ended in blows and slaughter. Many of the Centaurs were slain, and they at last were obliged to retire. Theseus among the Lapithæ showed himself brave and intrepid in supporting the cause of his friends; and Nestor also was not less active in the protection of chastity and innocence. Hesiod has described the battle of the Centaurs and Lapithæ; as has also Ovid, in a more copious manner. The invention of bits and bridles for horses is attributed to the Lapithæ.

LAPLAND, the most northerly country of Europe, extending from the north cape in 71° 30' N. Lat. to the White Sea under the arctic circle, is inhabited by the same people, though the country is subject to different powers. Norwegian Lapland, under the dominion of Denmark, lies between the northern sea, the river Pais, and the lake Enarak. Swedish Lapland comprehends all the country from the Baltic to the mountains that separate Norway from Sweden. It is divided into six districts, denominated *marck* or territory; and these are distinguished by the

names of rivers, such as Aungermanland, Elma, Peta, Lula, Torna, and Kiemi. The eastern part, subject to the Czar of Muscovy, situated between the lake Enarak and the White Sea, is divided into three distinct prefectures; namely, that of the sea-coast towards the north, called *Mourmankoi Leporie*; the Terskoi Leporie, upon the coast of the White Sea; and the third, or inland, known by the name of *Bellamoreskoi Leporie*. In Swedish Lapland, which is the most considerable of the three, the provinces or marcks are subdivided into smaller districts called *biars*, consisting each of a certain number of families; among which the land is parcelled out by government, or the prefect of the district appointed by the king of Sweden.

Lapland may be termed a huge congeries of frightful rocks and stupendous mountains; interspersed, however, with many pleasant valleys, watered by an infinite number of rivulets that run into the rivers and lakes, which discharge themselves into the gulf of Bothnia. The names of the principal lakes in Lapland are the Great Uma, the Great Windel, the Oreavan, the Stor-avan, the Great Lula; the lakes of Kartom, Kali, Torno, Enara, and Kimi. Some of these extend 60 leagues in length, and contain a great number of islands: Stor-avan is said to contain 365; and Enara contains an archipelago of islands so large, that no Laplander has lived long enough to visit each particular island. The natives believe this country to be the terrestrial paradise; and indeed nothing could be more enchanting than such vast prospects of mountains, hills, forests, lakes, rivers, &c. if the country was in a moderate climate; though even here, in summer the roses are seen blowing wild on the banks of the lakes and rivers, with all the beautiful glow of colour which appears in those cultivated in our gardens. But all the intervals between the mountains are not ingrossed by these agreeable prospects; great part of the flat country is covered with brown dusky forests of fir and pine trees; and these are often skirted by wide extended morasses, the stagnating waters of which in summer produce myriads of mischievous insects, that are more intolerable than even the cold of winter.

The cold of Lapland is very intense during the winter, freezing even brandy and the watery part of spirit of wine, if the latter is not highly rectified: all the lakes and rivers are frozen to a prodigious thickness; and the whole face of the country is covered with snow to the depth of four or five feet. While this continues loose, it is impossible to travel; for a man's eyes are not only blinded with it, but if a strong wind should rise he will be buried in the drifts of snow: yet should a partial thaw take place for a few hours, the surface of this snow is formed by the succeeding frost into a hard impenetrable crust, over which the Laplander travels in his sledge with great celerity. While the thaw prevails, the air is surcharged with vapours, and the climate is rainy; but while the north wind blows, the sky is beautifully serene, and the air very clear.

The heat of summer is almost as intolerable in Lapland as the cold of winter. At the northern extremity of the country the sun never sets for three months in summer, and in winter there is an uninterrupted night of the same duration; but this is qualified in such a manner by a constant revolution of dawn and twilight, by a serene sky, moon-light, and aurora borealis.

Lapland. lis, reflected from the white surface of the earth covered with snow, that the inhabitants are enabled to hunt, fish, and proceed with their ordinary occupations. The country abounds with excellent springs; and is remarkable for some surprising cataracts, in which the water rumbles over frightful precipices, and dashes among rocks with amazing impetuosity and noise.

The soil of Lapland is generally so chilled and barren, that it produces little or no grain or fruit-trees of any kind. This sterility, however, is not so much owing to the soil, which is in many places of a rich mould, as to want of industry; for in some districts the Swedes have tilled and manured pieces of ground that bear plentiful crops of rye. There is also great plenty of berries: such as black currants; what is called the Norwegian mulberry, growing upon a creeping plant, and much esteemed as an antiscorbutic; rasp-berries, cran-berries, juniper-berries, and bilberries. The tops of the mountains are so much exposed to intense cold, and tempests of snow and hail, that no tree will grow near the summit; but in parts that are more sheltered, we see fine woods of birch, pine, and fir, disposed by nature as if they had been planted by art in rows at regular distances, without any undergrowth or incumbrance below. Besides these trees, some parts of Lapland produce the service tree, the willow, the poplar, the elder, and the cornel. Among the plants of this country the principal is the angelica; which is greatly esteemed by the natives, who use it in their food. Here is likewise the acetosa or sorrel, which grows in great plenty, and is of much service on account of its antiscorbutic properties. They have also other kinds of herbs peculiar to the country, different kinds of grass, heath, fern, and moss; which are all enumerated by Linnæus in his *Flora Laponica*. But the vegetable which is in greatest plenty, and of the most extensive use among them, is the *lichen rangiferus*. The rein-deer is wholly sustained in winter by this vegetable; and the Laplanders themselves boil it in broth as a cordial and restorative. They likewise use one sort of it as a soft, easy, and wholesome bed for their newborn children.

Some silver and lead mines have been discovered in the provinces of Pitha and Lula; and two of copper, together with excellent veins of iron, in the district of Torno; but they are not at present worked with any considerable advantage. In some places there are veins of silver and gold mixed; but these mines are worked only for a few months in the summer, because the frost hinders the engines from playing. Here are found beautiful crystals, of a surprising magnitude, so hard and fine, that when polished they resemble real diamonds. In some places amethysts and topazes are also found, but pale and cloudy; also a great quantity of very curious stones, which are too hard to be worked by the tool of the mason. Some of these found on the banks of rivers and lakes, when they happen to bear the least resemblance to the figures of animals, the Laplanders remove to more conspicuous places, and adore as deities. The province of Torno affords some curious stones of an octagonal shape, regular, shining, and polished by the hand of nature. In some rivers they fish for pearls, which are generally pale; but some of them are as bright as the oriental pearls

and much larger and rounder. These pearls are found in muscle-shells; and the fishery is not in the sea, but in rivers.

Lapland, as well as Norway, is infested with a great number of grey wolves and bears, with whom the inhabitants wage perpetual war. The most honourable exploit among the Laplanders is that of killing a bear; and the heroes adorn their caps with a small plate of lead or pewter for every bear they have slain. The country abounds also with elks, beavers, and otters, which live here unmolested, and find plenty of fish for their subsistence. The forests of this country furnish haunts to a great number of beautiful martens and squirrels; which last change their colour every winter from brown to grey. Lapland is also the native country of the zibeling or sable, whose skin is extremely valuable. Here are likewise ermines, weasels, hares, large black cats which attend the Laplanders in hunting, and little prick-eared curs trained to the game. But the most remarkable animal of Lapland is the rein-deer, of which an account is given in the article CERVUS n^o 4. These animals, so useful in various respects to the natives, are kept at no expence. In summer they feed upon grasses and alpine plants; in winter, as already mentioned, upon the *lichen rangiferus*, or rein-deer lichen, and its varieties, which are so abundant as in many parts almost totally to cover the ground for the space of several miles, and which the sagacious animal discovers under the snow by the peculiar acuteness of its smell. Most of those used for draught are castrated when very young, and are larger and fatter than the bucks. The woods, mountains, and rivers are well stocked with wild-fowl; such as bustard, partridge, grouse, heathcock, pheasants, lapwings, swans, wild-geese, wild-ducks, and all sorts of aquatic birds that build and breed in northern climates. In the beginning of the spring the swans go thither in numerous flights from the German ocean; the lap-wings follow in such swarms that they darken the sky as they pass along, and scream so loud that they may be heard at a great distance. The rocks and mountains are likewise frequented by eagles, hawks, falcons, kites, and other birds of prey.—The rivers abound with delicious salmon from the gulph of Bothnia, trout, bream, and perch of exquisite flavour and amazing magnitude; and the inhabitants of Wardhus, or Danish Lapland, are well supplied with fish from the northern ocean.—With respect to insects, the flies hatched in the morasses and woods in summer are so numerous, that they often obscure the face of day; so venomous, troublesome, and intolerable, that the rein-deer fly to the tops of the highest mountains for shelter, and the Laplanders betake themselves to the sea-side, which is the least infested by these pestilent vermin. M. de Maupertuis, in his account of the voyage he made to Lapland, in company with the other French mathematicians sent thither by the king to measure a degree of the meridian, gives us to understand, that on the tops of the mountains in Torno the flies were so troublesome, that even the Finland soldiers, who are counted the most hardy troops in the service of Sweden, were obliged to cover their faces with the skirts of their coats from the attacks of these animals, which swarmed to such a degree, that the moment a piece of flesh appeared it was blackened all

Lapland. over. Some of these flies are very large, with green heads, and fetch blood from the skin wherever they strike. The Laplanders shroud themselves in the smoke of a large fire kindled for that purpose; yet even this disagreeable expedient was not sufficient to defend the French philosophers: they were obliged, notwithstanding the excessive heat, to wrap up their heads in garments made of the skins of rein-deer, called in that country *lapmudes*, and to cover themselves with a thick rampart of fir-boughs; yet all these precautions proved ineffectual. M. de Maupertuis observed a lake quite covered with little yellowish grains, resembling millet seed, which he supposed to be the chrysalises of some of these insects.

The Laplanders are very low in stature, and are likewise remarkable for having large heads. They are also ill shaped, and their features harsh. They are, however, strong, hardy, and robust, inasmuch that they will bear incredible fatigue; and it is remarked that the stoutest Norwegian is not able to bend the bow of a Laplander. The women are much less homely than the men, and many of them are noted for a delicate and florid complexion.

These people are simple, honest, hospitable, and timorous: their timidity, however, respects war alone; for to many other species of dangers they expose themselves with surprising intrepidity, whether in ascending and descending mountains and precipices with their snow-shoes and in sledges, or in venturing amidst whirlpools and cataracts in little slender boats made of thin fir-boards, fastened together with thongs of leather, sinews of wild-beasts, or tough and flexible twigs of willow and osier. These boats are of different sizes, from two to six yards in length, managed with oars, and caulked with moss so tight as to keep out the water. The Laplanders are partly settled, and in part wild and roving: the latter live in tents made with coarse cloth; the former are fixed in small villages near the lakes, and chiefly follow fishing. They build their cottages somewhat in the shape of a cone, by placing a circle of large trees or poles assant in the earth, and close to each other, so that their tops meet, and form a small vent for the issue of the smoke: they cover the ground within with branches of trees. In spring their food consists principally of the eggs of water-fowl, which are extremely plentiful in those parts; in summer and autumn, of the birds themselves, and of various other of the partridge-tribe; and in winter of the milk and flesh of the rein-deer and dried fish. They had till lately no bread; but in lieu thereof used the inner rind of the pine-tree dried and ground, and dried fish reduced to powder. They make confections and decoctions of berries, angelica, and sorrel, which they justly reckon to be preservatives against the scurvy. The Laplander is secured in the possession of uninterrupted health by temperance and exercise, which, together with the severity of the climate, brace his nerves to a very unusual pitch of strength, and fortify his constitution in such a manner, that he often lives to the age of 100, without feeling the least pang of distemper, or even perceiving his vigour in the least impaired; for it is not uncommon to see a Laplander in extreme old age hunting, fowling, skating, and performing all the severest exercises with undiminished agility.

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The summer garb of the men consists of a long coat of coarse cloth, reaching down the middle of the leg, and girded round the waist with a belt or girdle; from which hang a Norway knife, and a pouch containing flints, matches, tobacco, and other necessities; the girdle itself being decorated with brass rings and chains. Their caps are made of the skin of the northern diver, with the feathers on; and their shoes of the rein-deer skin, with the hair outwards. They wear no linen; but the garments of the better sort are of a finer cloth, and they delight in a variety of colours, though red, as the most glaring, is the most agreeable. In winter they are totally cased up in coats, caps, boots, and gloves, made of the rein-deer skins. In the *Flora Lapponica*, Linnæus says, "Perhaps the curious reader will wonder how the people in Lapland, during the terrible cold that reigns there in winter, can preserve their lives; since almost all birds, and even some wild beasts, desert it at that time. The Laplander, not only in the day, but through the whole winter nights, is obliged to wander about in the woods with his herds of rein-deer. For the rein-deer never come under cover, nor eat any kind of fodder, but a particular kind of liverwort. On this account the herdsmen are under a necessity of living continually in the woods, in order to take care of their cattle, lest they should be devoured by wild beasts. The Laplander easily does without more light, as the snow reflects the rays that come from the stars, and as the *Aurora Borealis* illuminates the air every night with a great variety of figures. No part of our body is more easily destroyed by cold than the extremities of the limbs, which are most remote from the sun of this microcosm, the heart. The kibes that happen to our hands and feet, so common in the northern parts of Sweden, prove this. In Lapland you will never see such a thing; although were we to judge by the situation of the country, we should imagine just the contrary, especially as the people wear no stockings, as we do, not only single, but double and triple. The Laplander guards himself against the cold in the following manner. He wears breeches made of rein-deer skins with the hair on, reaching down to his heels, and shoes made of the same materials, the hairy part turned outwards. He puts into his shoes slender-eared broad-leaved cyperus grass, (*carex vesicaria*, *Spec. Pl.* or the Bladder Carex), that is cut in summer and dried. This he first combs and rubs in his hands, and then places it in such a manner that it not only covers his feet quite round, but his legs also; and being thus guarded, he is quite secured against the intense cold. With this grass they stuff their gloves likewise, in order to preserve their hands. As this grass keeps off the cold in winter, so in summer it hinders the feet from sweating, and at the same time preserves them from being annoyed by striking against stones, &c. for their shoes are very thin, being made, not of tanned leather, but the raw hide."

The womens apparel differs very little from that of the other sex; only their girdles are more ornamented with rings, chains, needle-cases, and toys that sometimes weigh 20 pounds. In winter, both men and women lie in their furs; in summer, they cover themselves entirely with coarse blankets to defend them from the gnats which are intolerable. The Laplanders

Lapland. are not only well disposed, but naturally ingenious. They make all their own furniture, their boats, sledges, bows and arrows. They form neat boxes of thin birch boards, and inlay them with the horn of the rein-deer. The Swedes are very fond of the Lapland baskets made of the roots of trees, slit in long thin pieces, and twisted together so nicely that they will hold water. Among the manufactures of this country we likewise number curious horn-spoons, and moulds in which they cast the trinkets of tin which adorn their girdles. Over and above these domestic occupations, the men within doors perform the office of cooks in dressing victuals for the family. The women act as taylor and embroiderers; they make clothes, shoes, and boots, and harness for the rein deer: they spin thread of fur, and knit it into caps and gloves that are very soft and warm. They draw tin into wire through a horn; and with this they cover the thread which they use in embroidering the figures of beasts, flowers, trees, and stars upon their caps and girdles.

The Laplanders make surprising excursions upon the snow in their hunting expeditions. They provide themselves each with a pair of skates, or snow-shoes, which are no other than fir-boards covered with the rough skin of the rein-deer, turned in such a manner that the hair rises against the snow, otherwise they would be too slippery. One of these shoes is usually as long as the person who wears it; the other is about a foot shorter. The feet stand in the middle, and to them the shoes are fastened by thongs or withes. The Laplander thus equipped wields a long pole in his hand, near the end of which there is a round ball of wood to prevent its piercing too deep in the snow; and with this he stops himself occasionally. By means of these accoutrements he will travel at the rate of 60 miles a-day without being fatigued; ascending steep mountains, and sliding down again with amazing swiftness.

The Laplander not only travels a-foot, but is provided with a carriage drawn by the rein-deer, in which he journeys with still greater rapidity. The sledge, called *pulka*, is made in the form of a small boat, with a convex bottom, that it may slide the more easily over the snow: the prow is sharp and pointed; but the sledge is flat behind. The traveller is swathed in this carriage like an infant in a cradle, with a stick in his hand to steer the vessel, and disengage it from pieces of rock or stumps of trees that may chance to encounter it in the route. He must also balance the sledge with his body, otherwise he will be in danger of being overturned. The traces, by which this carriage is fastened to the rein-deer, are fixed to a collar about the animal's neck, and run down over the breast between the fore and hind legs, to be connected with the prow of the sledge: the reins, managed by the traveller, are tied to the horns; and the trappings are furnished with little bells, the sound of which is agreeable to the animal. With this draught at his tail, it has been reported that the rein-deer will fly like lightning over hill and dale at the rate of 200 miles a-day. But this representation is greatly exaggerated. According to the best accounts, the common pace of the rein-deer is only at the rate of about four miles an hour; though, if he be pressed, he will travel 10 or 12 Swedish miles (70 or 84 English miles) in a day; but by such hard

driving is generally destroyed. It, however, frequently happens, that he will persevere in his journey 50 miles without intermission, and without taking any refreshment, except occasionally moistening his mouth with the snow. Before he sets out, the Laplander whispers in his ear the way he is to follow, and the place at which he is to halt, firmly persuaded that the beast understands his meaning: but, in spite of this intimation, he frequently stops short long before he has reached the journey's end; and sometimes he overshoots the mark by several leagues. In the beginning of winter the Laplanders mark the most frequented roads, by strewing them with fir-boughs; and indeed these roads are no other than pathways made through the snow by the rein-deer and the pulkhas: their being frequently covered with new snow, and alternately beaten by the carriage, consolidates them into a kind of causeway; which is the harder if the surface has felt a partial thaw, and been crufted by a subsequent frost. It requires great caution to follow these tracts; for if the carriage deviates to the right or left, the traveller is plunged into an abyss of snow. In less frequented parts, where there is no such beaten road, the Laplander directs his course by certain marks which he has made on the trees.

The chief occupation of the Laplanders is hunting, and this exercise they perform in various ways. In summer they hunt the wild beasts with small dogs, trained to the diversion. In winter they pursue them by their tracks upon the snow, skating with so great velocity, that they very often run down the prey. They catch ermines in traps, and sometimes with dogs. They kill squirrels, martens, and fables, with blunt darts, to avoid wounding the skin. Foxes and beavers are slain with sharp-pointed darts and arrows; in shooting which, they are accounted the best marksmen in the world. The larger beasts, such as bears, wolves, elks, and wild rein-deer, they either kill with fire-arms purchased in Sweden or Norway, or take in snares and pits dug in the forests. Their particular laws relating to the chase are observed with great punctuality. The beast becomes the property of the man in whose snare or pit he is caught; and he who discovers a bear's den has the exclusive privilege of hunting him to death. The conquest of a bear is the most honourable achievement that a Laplander can perform; and the flesh of this animal they account the greatest delicacy on earth. The bear is always dispatched with a fusil, sometimes laid as a snare, ready cocked and primed; but more frequently in the hands of the hunter, who runs the most imminent risk of his life should he miss his aim of wounding the beast mortally. The death of a bear is celebrated by the Laplanders as a signal victory. The carcase is drawn to the cabin or hut of the victor by a rein-deer, which is kept sacred from any other work for a whole year after this service. The bear is surrounded by a great number of men, women, and children, reciting a particular hymn or song of triumph, in which they thank the vanquished enemy for having allowed himself to be overcome without doing any mischief to his conqueror, and welcome his arrival: then they make an apostrophe to heaven, expressing their acknowledgment to God, that he has created beasts for the use of men, and endued mankind with strength and courage to over-

come

Lapland. come and attack the fiercest of the brute creation. The hero is saluted by the women, who spit chewed elder-bark in his face. He is feasted three days successively, and his cap is decorated with an additional figure wrought in tin-wire.

The manner in which the young Laplander chooses a wife is equally remarkable and ludicrous. When he has pitched upon a female, he employs some friends as mediators with the father; and these being provided with some bottles of brandy, the suitor accompanies them to the hut of his future father-in-law, who invites the mediators to enter; but the lover is left without until the liquor be drunk, and the proposal discussed: then he is called in, and entertained with such fare as the hut affords; yet without seeing his mistress, who retires and goes out on this occasion. Having obtained leave of her parents to make his addresses in person, he puts on his best apparel, and is admitted to the lady, whom he salutes with a kiss: then he presents her with the tongue of a rein-deer, a piece of beaver's flesh, or some other sort of provision. She declines the offer, which is made in presence of her sisters and relations; but makes a signal to the lover to follow her into the fields, where she accepts the presents. Thus encouraged, he begs her permission to sleep with her in the hut: if she consents, there is no further difficulty; if she disapproves of the proposal, she drops her presents on the ground. When the lovers are agreed, the youth is permitted to visit his innamorata as often as he shall think proper: but every time he comes, he must purchase this pleasure with a fresh bottle of brandy; a perquisite so agreeable to the father, that he often postpones the celebration of the nuptials for two or three years. At length the ceremony is performed at church by the priest of the parish. Even after this event, the husband is obliged to serve his father-in-law a whole year; at the expiration of which he retires to his own habitation with his wife, and her patrimony of rein-deer, and receives presents from all his friends and relations. From this period he sequesters his wife from the company of all strangers, especially of the male sex, and watches over her conduct with the most jealous vigilance.

Many Lapland women are barren, and none of them are very fruitful. A woman, immediately after delivery, swallows a draught of whale-fat: the child is washed with snow or cold water, and wrapped up in a hare-skin. The mother is seldom above five days in the straw, and in fourteen is generally quite recovered: then she carries the child to church to be baptized. Before she can reach the residence of the priest, she is often obliged to traverse large forests, mountains, lakes, and wide-extended wastes of snow. The infant is fastened in a hollowed piece of wood, stretched naked on a bed of fine moss, covered with the soft skin of a young rein deer, and slung by two straps to the back of the mother, who always suckles her own child. At home this little cradle is hung to the roof of the hut, and the child lulled asleep by swinging it from one side to the other. The boys from their infancy practise the bow; and are not allowed to break their fast until they have hit the mark. The female children are as early initiated in the business peculiar to their sex.

These people, though for the most part vigorous

and healthy, are not altogether exempted from distemper. They are subject to sore eyes, and even to blindness, from the smoke of their huts, and the fire to which they are almost continually exposed. Some waste away in consumptions; others are afflicted with rheumatic pains and the scurvy; and a few are subject to vertigo and apoplexy. For the cure of all their internal disorders, they use no other medicine than the decoction of a certain species of moss; and when this cannot be procured, they boil the stalk of angelica in the milk of the rein-deer. In order to remove a fixed pain, they apply a large mushroom, burning hot, to the part affected; and this produces a blister, which is supposed to draw off the peccant humour. To their wounds they apply nothing but the turpentine that drops from the fir-tree. When they are frost-bitten, (though according to the above extract from Linnaeus this seldom or never happens), we are told that they thrust a red-hot iron into a cheese made of rein-deer's milk, and with the fat that drops from it anoint the frozen member, which generally recovers. When a Laplander is supposed to be on his death-bed, his friends exhort him to die in the faith of Christ, and bear his sufferings with resignation, by remembering the passion of our Saviour. They are not, however, very ready to attend him in his last moments; and as soon as he expires, quit the place with precipitation, apprehending some injury from his spirit or ghost, which they believe remains with the corpse, and takes all opportunities of doing mischief to the living. The deceased is wrapped up in woollen or linen, according to his circumstances, and deposited in a coffin by a person selected for that purpose: but this office he will not perform, unless he is first secured from the ill offices of the manes, by a consecrated brass ring fixed on his left arm. The Christian religion in this country has not yet dispelled all the rites of heathenish superstition: together with the body they put into the coffin an ax, a flint, and steel, a flask of brandy, some dried fish and venison. With the ax the deceased is supposed to hew down the bushes or boughs that may obstruct his passage in the other world: the steel and flint are designed for striking a light, should he find himself in the dark at the day of judgment; and on the provision they think he may subsist during his journey.

The Muscovite Laplanders observe other ceremonies, that bear an affinity to the superstitions of the Greek church. They not only supply the defunct with money, but likewise provide him with money for the porter of paradise, and a certificate signed by the priest, and directed to St Peter, specifying, that the bearer had lived like a good Christian, and ought to be admitted into heaven. At the head of the coffin they place a little image of St Nicholas, who is greatly revered in all parts of Muscovy as a friend to the dead. Before the interment, the friends of the deceased kindle a fire of fir-boughs near the coffin, and express their sorrow in tears and lamentations. They walk in procession several times round the body, demanding, in a whining tone, the reason of his leaving them on earth. They ask whether he was out of humour with his wife; whether he was in want of meat, drink, clothing, or other necessaries; and whether he had not succeeded in hunting and fishing? These,

Lapland. and other such interrogations, to which the defunct makes no reply, are intermingled with groans and hideous howlings; and, between whiles, the priest sprinkles the corpse and the mourners alternately with holy water. Finally, the body is conveyed to the place of interment on a sledge drawn by a rein-deer; and this, together with the cloaths of the deceased, are left as the priest's perquisite. Three days after the burial, the kinsmen and friends of the defunct are invited to an entertainment, where they eat the flesh of the rein-deer which conveyed the corpse to the burying-ground. This being a sacrifice to the manes, the bones are collected into a basket and interred. Two thirds of the effects of the deceased are inherited by his brothers, and the remainder divided among his sisters: but the lands, lakes, and rivers, are held in coparceny by all the children of both sexes, according to the division made by Charles IX. of Sweden, when he assigned a certain tract of land to each family.

The commerce of the Laplanders is more considerable than one would expect in a desert country inhabited by a savage ignorant people. They export great quantities of fish to the northern parts of Bothnia and White Russia. They likewise trade with the neighbouring countries of Norway, Sweden, Muscovy, and Finland, by selling rein-deer, fine furs, baskets and toys of their own manufacture, dried pikes, and cheese made of the rein-deer's milk. In return for these commodities they receive rixdollars, woollen cloaths, linen, copper, tin, flour, oil, hides, needles, knives, spirituous liquors, tobacco, and other necessities. The Laplanders march in caravans to the fairs in Finland and Norway: these are composed of a long string of 30 or 40 rein-deer and pulkhas tied to one another, the foremost being led by a Laplander a-foot. When they have chosen a spot for an encampment, they form a large circle of their rein-deer and pulkhas ready yoked; and the animals lying down quietly on the snow, are fed with moss by their masters. The people kindle great fires, around which, men, women, and children sit, and sup on dried fish: but the more voluptuous spread out bear-skins under their tents, where they lie at their ease and smoke tobacco.

The revenue arising from this country is of no great consequence: it is paid partly in rix-dollars, but chiefly in furs; nay, some that can procure neither, pay the tribute in dried pikes. The produce of the mines forms likewise a considerable article. Fifty squirrel-skins, or one fox-skin, with a pair of Lapland shoes, are valued at one rixdollar. Part of the taxes is allotted for the maintenance of the Lapland clergy.—The frightful aspect of this country has been deemed a more effectual defence than artificial bulwarks and garrisons, of which here are none; or than the arms and courage of the natives, who are neither warlike in themselves, nor in the least tinctured with discipline.

The Laplanders call themselves *Salme-Same*, and *Samen-Almatjeb*. Their country they denominate *Same-Landa*, or *Same-aednam*; the Swedes style it *Lapland* or *Lappmarken*, and the inhabitants *Lappar*. The natives of those districts under the dominion of Sweden and Denmark are Lutherans; while many of those who are subject to Russia are still Pagans. Swedish

Lapland contains about eight churches, which in some parts lie at so great a distance from each other, that a native is frequently obliged to travel three days in order to attend divine service. The Laplanders, before their conversion to Christianity, which was not till lately introduced amongst them, possessed no books or manuscripts, though they knew many traditional histories and songs of ancient heroes and princes who once reigned over them; but involved in great uncertainty, and mixed with the most fabulous accounts. They have now a translation of the New Testament in their language; and many of the natives are able to read and write.

LAPLYSIA, or **SEA-HARE**; a genus of marine insects belonging to the order of vermes mollusca. The body is covered with membranæ reflected. It hath a shield-like membrane on the back, a lateral pore on the right side, the anus on the extremity of the back, with four feelers resembling ears. The figure represents the *depilans minor*, which grows to two inches and a half in length, and to more than an inch in diameter: its body approaches to an oval figure, and is soft, punctated, of a kind of gelatinous substance, and of a pale lead colour; from the larger extremity there arise four oblong and thick protuberances: these are the tentacula; two of them stand nearly erect, two are thrown backward. It is not uncommon about our shores, especially off Anglesea. It causes, by its poisonous juice, the hair to fall off the hands of those that touch it; and is so extremely fetid as to create sickness at stomach.—The major, or greater sea-hare, grows to the length of eight inches. Laplysia
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Lapsc.
Plate
CCLXIII.

LAPSANA, **NIPPLEWORT**: A genus of the polygamia æqualis order, belonging to the syngenesia class of plants; and in the natural method ranking under the 49th order, *Compositæ*. The receptacle is naked; the calyx caliculated, with all the inferior scales canaliculated or finely channelled. There are four species, which grow commonly as weeds by the sides of ditches. The young leaves of the common kind, called *dock-cresses*, have the taste of radishes, and are eaten raw at Constantinople as a salad. In some parts of England the common people boil them as greens, but they have a bitter and disagreeable taste.

LAPSE, in ecclesiastical law, a slip or omission of a patron to present a clerk to a benefice within six months of its being void: in which case, the benefice is said to be in *lapse*, or *lapsed*, and the right of presentation devolved to the ordinary.

And if the ordinary neglect to present during the same time, the right of presentation accrues to the metropolitan, and to the king by neglect of the metropolitan. This right of lapse was first established in the reign of Henry II. when the bishops first began to exercise universally the right of institution to churches: and therefore when there is no right of institution, there is no right of lapse; so that no donative can lapse to the ordinary, unless it hath been augmented by the king's bounty; but no right of lapse can accrue, when the original presentation is in the crown. In case the benefice becomes void by death, or cession through plurality of benefices, there the patron is bound to take notice of the vacancy at his own peril; but in case of a vacancy by resignation or canonical deprivation, or if a clerk presented be refused for insuffi-

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Larceny.

sufficiency, these being matters of which the bishop alone is presumed to be cognizant, here the law requires him to give notice thereof to the patron, otherwise he can take no advantage by way of lapse; neither shall any lapse accrue thereby to the metropolitan or the king. If the bishop refuse or neglect to examine and admit the patron's clerk, without good reason assigned or notice given, he shall have no title to present by lapse: and if the right of presentation be litigious or contested, and an action be brought against the bishop to try the title, no lapse shall occur till the question of right be decided. If the bishop be both patron and ordinary, he shall not have a double time allowed him to collate in: and if the bishop doth not collate his own clerk immediately to the living, and the patron presents, though after the six months are lapsed, yet the presentation is good, and the bishop is bound to institute the patron's clerk. If the bishop suffer the presentation to lapse to the metropolitan, the patron also has the same advantage if he presents before the archbishop has filled up the benefice: yet the ordinary cannot, after lapse to the metropolitan, collate his own clerk to the prejudice of the archbishop. But if the presentation lapses to the king, the patron shall never recover his right till the king has satisfied his turn by presentation; for *nullum tempus occurrit re i.*

LAPWING, in ornithology. See TRINGA.

LAQUEARIUS, a kind of athleta among the ancients, who in one hand held a *laqueus*, i. e. a sort of snare, wherewith to embarrass and entangle his antagonist, and in the other a poignard to stab him.

LAQUEUS, in surgery, a kind of ligature so contrived, that, when stretched by any weight or the like, it draws up close. Its use is to extend broken or dis-jointed bones, to keep them in their places while they are set, and to bind the parts close together.

LARARIUM, was a chapel which the Romans frequently had in their houses for the household gods, called *lares*. Spartian says, that Alexander the son of Mammeus kept in his lararium the figure of our Saviour, together with his other idols.

LAR-BEARD, among seamen, the left-hand side of the ship when you stand with your face towards the head.

LARCENY, or THEFT, by contraction for latro-ciny, *latrocinium*, is distinguished by the law into two sorts: the one called *simple larceny*, or plain theft, unaccompanied with any other atrocious circumstance; and *mixed or compound larceny*, which also includes in it the aggravation of a taking from one's house or person.

I. *Simple larceny*, when it is the stealing of goods above the value of twelvecence, is called *grand larceny*; when of goods to that value, or under, is *petit larceny*: offences, which are considerably distinguished in their punishment, but not otherwise. See THEFT.

II. *Mixed, or compound larceny*, is such as has all the properties of the former, (see THEFT); but is accompanied with either one or both of the aggravations of a taking from one's *house* or *person*. First therefore of larceny from the *house*, and then of larceny from the *person*.

1. Larceny from the *house*, though it might seem

to have a higher degree of guilt than simple larceny, yet is not at all distinguished from the other at common law: unless where it is accompanied with the circumstance of breaking the house by night; and then it falls under another description, viz. that of burglary, (see BURGLARY). But now by several acts of parliament (the history of which is very ingeniously deduced by a learned modern writer †, who hath † *Barr.* shown them to have gradually arisen from our improvements in trade and opulence), the benefit of clergy is taken from larcenies committed in an house in almost every instance: except that larceny of the stock or utensils of the plate-glass company from any of their houses, &c. is made only single felony, and liable to transportation for seven years. The multiplicity of the general acts is apt to create some confusion; but upon comparing them diligently, we may collect, that the benefit of clergy is denied upon the following domestic aggravations of larceny; viz. first, in larcenies *above the value of twelvecence*, committed, 1. In a church *Blackst.* or chapel, with or without violence, or breaking the *Comment.* same: 2. In a booth or tent in a market or fair, in the day-time or in the night, by violence or breaking the same, the owner or some of his family being therein: 3. By robbing a dwelling-house in the day-time (which *robbing* implies a breaking), any person being therein: 4. In a dwelling-house by day or by night, without breaking the same, any person being therein and put in fear; which amounts in law to a robbery: and in both these last cases the accessory before the fact is also excluded from his clergy. Secondly, in larcenies *to the value of five shillings*, committed, 1. By breaking any dwelling-house, or any out house, shop, or warehouse thereunto belonging, in the day-time, although no person be therein; which also now extends to aiders, abettors, and accessories before the fact: 2. By privately stealing goods, wares, or merchandise in any shop, warehouse, coach-house, or stable, by day or by night; though the same be not broken open, and though no person be therein: which likewise extends to such as assist, hire, or command the offence to be committed. Lastly, in larcenies *to the value of forty shillings* in a dwelling-house, or its out houses, although the same be not broken, and whether any person be therein or not; unless committed against their masters by apprentices under the age of 15. This also extends to those who aid or assist in the commission of any such offence.

2. Larceny from the *person*, is either by *privately* stealing, or by open and violent assault, which is usually called *robbery*.

The offence of *privately* stealing from a man's *person*, as by picking his pocket or the like, privily, without his knowledge, was debarred of the benefit of clergy so early as by the statute 8 Eliz. c. 4. But then it must be such a larceny as stands in need of the benefit of clergy, viz. of above the value of 12 d.; else the offender shall not have judgment of death. For the statute creates no new offence; but only takes away the benefit of clergy, which was a matter of grace, and leaves the thief to the regular judgment of the ancient law. This severity (for a most severe law it certainly is) seems to be owing to the ease with which such offences are committed, the difficulty of guarding against them, and the boldness with which they were

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practised (even in the queen's court and presence) at the time when this statute was made: besides that this is an infringement of property in the manual occupation or corporal possession of the owner, which was an offence even in a state of nature. And therefore the *faccularii*, or cutpurves, were more severely punished than common thieves by the Roman and Athenian laws.

As to open and violent larceny from the person, see ROBBERY.

LAR, a town of Persia, in the province of Fars, with a castle. It carries on a great trade in silk; and its territory abounds in oranges, lemons, and very large tamarinds. E. Long. 54. 15. N. Lat. 27. 30.

LARACHA, an ancient and strong town of Africa, in the kingdom of Fez. It is seated at the mouth of a river of the same name, with a good harbour. It was once in the possession of the Spaniards; but the Moors took it from them. W. Long. 5. 55. N. Lat. 35. 0.

LARDNER (Nathaniel), an eminent English dissenting divine, was born at Hawkhurst in Kent, June 6. 1684. After a grammatical education, to which great attention must have been given, and in which a no less rapid progress must have been made, he was sent first to a dissenting academy in London, which was under the care of the Rev. Dr Joshua Oldfield; and thence, in his 16th year, to prosecute his studies at Utrecht, under the celebrated professors D'Uries, Graevius, and Burman. Here he remained somewhat more than three years, and then removed for a short space to Leyden. In 1703 he returned to England, continuing at his father's house to employ himself by close and diligent preparation for the sacred profession which he had in view. Qualified as he was, it was not till 1709 that he preached his first sermon, from Romans i. 16.—“a text (his biographer remarks) than which there could not have been a more proper one for a man who was destined in the order of Divine Providence to be one of the ablest advocates for the authenticity and truth of the Christian revelation that ever existed.”

A few years after this, Lardner was received into Lady Treby's family as domestic chaplain and tutor to her son, and continued in this comfortable situation till her ladyship's death in 1721. This event threw him into circumstances of some perplexity, having preached to several congregations during his residence with Lady Treby without the approbation or choice of any one congregation. Here we are told, “that it reflects no honour on the Dissenters, that a man of such merit should so long have been neglected.” But it has been observed upon this, that the pulpit was not the place in which Mr Lardner was calculated either to convey improvement or acquire reputation. Dr Kippis afterwards informs us, “that his mode of elocution was very unpleasant; that from his early and extreme deafness he could have no such command of his voice as to give it a due modulation; and that he greatly dropped his words.” It cannot then, as his biographer adds, be matter of surprise that he was not popular; nor, it may be added, can it be any reflection on the congregations to which he occasionally preached, that they did not choose for their minister a man, who, notwithstanding his great learning and amiable

virtues, was so deficient as a public speaker, that it was impossible to hear him with any pleasure, and scarcely without pain. Lardner.

Though Mr Lardner had no church at which he officiated as minister, he was engaged with some of his dissenting brethren in preaching a Tuesday-evening lecture at the Old Jewry. Acquainted probably with the direction of his studies, they appointed him to preach on the proof of the *Credibility of the Gospel History*. This he discussed, we are told, in two sermons; and prosecuting the subject which he had taken up in these discourses, in Feb. 1727, he published, in two volumes octavo, the *First Part of “The Credibility of the Gospel History, or the Facts OCCASIONALLY mentioned in the New Testament confirmed by Passages of ancient Authors who were contemporary with our Saviour or his Apostles, or lived near their Time.”* An *Appendix* was subjoined, relating to the time of Herod's death.

Thus Mr Lardner commenced author, and began his literary career with singular reputation. “It is scarcely necessary to say (observes Dr Kippis), how well this work was received by the learned world. Not only was it highly approved by the Protestant Dissenters, with whom the author was more immediately connected, but by the clergy in general of the established church; and its reputation gradually extended into foreign countries. It is indeed an invaluable performance, and hath rendered the most essential service to the cause of Christianity. Whoever peruses this work (and to him that does not peruse it, it will be to his own loss) will find it replete with admirable instruction, sound learning, and just and candid criticism.” These two, with the subsequent fifteen, volumes octavo, and the four thin quartos intitled *Jewish and Heathen Testimonies*, occupied him, with the interruption arising from some smaller productions, during the space of *forty-three years*.

Dr Kippis gives us a particular account of the time when each volume was published, and of the subjects discussed in each. The following useful information which the Doctor introduces, in speaking of the “*Supplement to the Credibility*,” deserves well to be transcribed. “I cannot avoid strongly recommending this work (says he) to the attention of all young divines. Indeed, I think that it ought to be read by every theological student before he quits the university or academy in which he is educated. There are three other works which will be found of eminent advantage to those who are intended for, or beginning to engage in, the Christian ministry. These are, Butler's *Analogy*, Bishop Law's *Considerations on the Theory of Religion*, and Dr Taylor's *Key to Apostolical Writings*, prefixed to his *Paraphrase on the Epistle to the Romans*. Without agreeing with every circumstance advanced in these works, it may be said of them with the greatest truth, that they tend to open and enlarge the mind; that they give important views of the evidence, nature, and design of revelation; and that they display a vein of reasoning and inquiry which may be extended to other objects besides those immediately considered in the books themselves.—It must not be forgotten, that the *Supplement to the Credibility* has a place in the excellent collection of treatises in divinity which has lately been published by Dr Wat-

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Laredo son bishop of Landaff. For a collection which cannot fail of being eminently conducive to the instruction and improvement of younger clergymen, and for the noble, manly, and truly evangelical preface by which it is preceded, this great prelate is entitled to the gratitude of the Christian world." It may not be improper to add, that the *Supplement to the Credibility* was some years ago published separately by the booksellers, under the title of *The History of the Gospels and Epistles*.

Applauded as Dr Lardner's works were, he received little recompence for them. Some of the latter volumes of the *Credibility* were published at a loss; and at last he sold the copy-right and all the remaining printed copies to the booksellers, for the trifling sum of L.150. His object, however, was not private emolument, but to serve the interests of truth and virtue; and it pleased Divine Providence to spare his life, both to complete his extensive plan, and to see the last volume, the 4th of the *Testimonies*, published. This was in 1767. He was seized with a decline in the summer following; and was carried off in a few days at Hawk-hurst, the place of his nativity, where he had a small paternal estate, in the 85th year of his age.

LAREDO, a sea-port town of Spain, in the bay of Biscay, with a large safe harbour. It is 30 miles west of Bilboa, and 72 north by west of Burgos. W. Long. 3. 45. N. Lat. 43. 23.

LARENTINALIA, in antiquity, a feast held among the Romans on the 23d day of December, but ordered to be observed twice a year by Augustus; by some supposed to have been in honour of the Lares, but by others, with more probability, in honour of Acca Laurentia; and to have been the same with Laurentalia.

LARES, among the ancients, derived by Apuleius (*De Deo Socratis*), from *lar*, *familiaris*; a kind of domestic genii, or divinities, worshipped in houses, and esteemed the guardians and protectors of families; supposed to reside more immediately in the chimney corner.

The Lares were distinguished from the Penates; as the former were supposed to preside over house-keeping, the servants in families, and domestic affairs; and the latter were the protectors of the masters of families, their wives and children. Accordingly the Lares were dressed in short succinct habits, to show their readiness to serve; and they held a sort of cornucopia in their hands, as a signal of hospitality and good house-keeping. According to Ovid, there were generally two of them, who were sometimes represented with a dog at their feet.

Plutarch distinguishes good and evil Lares, as he had before done good and evil Genii.—There were also some public, others private Lares.

Apuleius tells us the domestic Lares were no more than the souls of departed persons, who had lived well, and discharged the duties of their station; whereas those who had done otherwise, were vagabonds, wandering about and frightening people, called *Larvæ* and *Lemures*.

The Lares were also called *Penates*, and were worshipped under the figures of little marmosets, or images of wax, silver, or earthen ware.

The public Lares were also called *Compitales*, from *compitum* "a cross-way;" and *Viales*, from *via* "a way

or public road;" as being placed at the meetings of roads and in the high-ways, and esteemed the patrons and protectors of travellers.

Their private Lares took care of particular houses and families: these they also called *Præstites*, from *præsto*;

Quod præstant oculis omnia tuta suis.

Ovid Fast.

They gave the name *Urbani*, i. e. "Lares of cities," to those who had cities under their care; and *Hostilii*, to those who were to keep their enemies off. There were also Lares of the country, called *Rurales*, as appears by several antique inscriptions.

The Lares were also genial gods, and were supposed to take care of children from their birth. It is for this reason that when Macrobius tells us the Egyptians had four gods who presided over the birth of children, viz. the Genius, Fortune, Love, and Necessity, called *Præstites*, some interpret him as if he had said the Egyptians had Lares; but they have mentioned that there was a great difference between the Lares of the Romans and the *Præstites* of the Egyptians. However, the learned Mr Bryant affirms that they were the same.

The ancients differ extremely about the origin of the Lares. Varro and Macrobius say that they were the children of Mania; Ovid makes them the issue of Mercury, and the Naiad Lara, or Larunda; Apuleius assures us they were the posterity of the Lemures; Nigidius, according to Arnobius, made them sometimes the guardians and protectors of houses, and sometimes the same with the Curetes of Samothracia, which the Greeks call *Idai daëtyli*. Nor was Varro more consistent in his opinion of these gods; sometimes making them the manes of heroes, and sometimes gods of the air.

T. Tatius king of the Sabines, was the first who built a temple to the Lares. The chimney and fireplace in the house were particularly consecrated to them.

Tertullian tells us, the custom of worshipping the Lares arose from this, that they anciently interred their dead in their houses; whence the credulous people took occasion to imagine their souls continued there also, and proceeded to pay them divine honours. To this it may be added, that the custom being afterwards introduced of burying in the highways, they might hence take occasion to regard them as gods of the highways.

The victim offered to the Lares in the public sacrifices was a hog: in private, they offered them wine, incense, a crown of wool, and a little of what was left at the table. They also crowned them with flowers, particularly the violet, myrtle, and rosemary. Their symbol was a dog, which was usually represented by their side, on account of its fidelity and the service it does to man in watching his house. They were sometimes also represented as clothed in a dog's skin.

The term *Lares*, according to Mr Bryant, was formed from *laren*, an ancient word by which the ark was represented: and he supposes that the Lares and Manes were the same domestic deities under different names; and that by these terms the Hetrurians and Latins denoted the *dii arkite*, who were no other than their arkite ancestors, or the persons preserved in the laren or ark; the genius of which was Isis, the reputed

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ted parent of the world. He observes farther, that they are described as dæmons and genii, who once lived on earth, and were gifted with immortality. Arnobius styles them *Lares quosdam genios & fundorum animas*; and he says, that according to Varro, they were the children of Mania. Huetius (Demonst. Prop. 4. p. 139.) adds, that Mania had also the name of *Larunda*; and she is styled the mother of the dæmons. By some she is called *Lara*, and was supposed to preside over families; and children were offered at her altar in order to procure her favour. In lieu of these they in after-times offered the heads of poppies and pods of garlic.

LARGE, a sea term applied to the wind when it crosses the line of a ship's course in a favourable direction, particularly on the beam or quarter. Thus, if a ship steer west, then the wind in any point of the compass to the eastward of the south or north may be called *large*, unless when it is directly east, and then it is said to be right aft. Sailing large is, therefore, advancing with a large wind, so as that the sheets are slackened and flowing, and the bow-lines entirely disused. This phrase is generally opposed to sailing close-hauled.

LARGESS. See LARGITIO.

LARGITIO, in Roman antiquity, was a distribution of corn, provision, cloaths, money, &c. to the people. Gracchus, when tribune, to make himself popular, passed a law for supplying the Roman citizens with corn at a very low rate, out of the public granaries. Claudius, another tribune, with the same views to popular applause, procured it to be distributed gratis.—Cato, to win the common people from Cæsar, persuaded the senate to do the same, and 300,000 citizens shared in the distribution. Cæsar, after his triumph, extended his bounty to 150,000, giving them each a *mina*. The Roman emperors enlarged still further the list of those who were to partake of their distributions. *Largitio* is frequently taken in a bad sense, to signify a masked bribery; whereby candidates purchased votes, when they stood for places of honour or trust in the state. The distribution of money was called *congiarium*, and the distributors *divisores* and *sequestres*.

LARGS, a village on the west coast of Scotland, opposite to the island of Bute; rendered memorable by the defeat of the Norwegians here in their last invasion of this country.—This invasion was made in the year 1263, with a fleet of 160 sail and an army of 20,000 men, commanded by Haquin king of Norway, whose ravages on the coast of Ayr, Bute, and Arran, reaching the Scottish court, an army was immediately assembled by Alexander III. and a bloody engagement ensued at this village, when 16,000 of the invaders were slain in the battle and flight, with 5000 Scots. Haquin escaped to the Orkneys, where he soon after died of grief. The entrenchments of the Norwegian camp may still be traced along the shore of this place. The Scottish commanders who fell in battle were buried in a rising field, near the village; three or four persons were interred in one grave, on each side of which was a large stone, a third was placed across the grave, supported at the extremities by the side stones, and in this rude manner the warriors lay entombed. Some years ago the proprietor of the field demolished these repositories of the dead, leaving only one (a

M^o 175.

special favour!), which serves to give an idea of the whole.

LARINO, a town of Italy, in the kingdom of Naples, in the Capitanata, with a bishop's see. E. Long. 15. 51. N. Lat. 41. 48.

LARISSA, an ancient, rich, and celebrated town of Greece, in the province of Janna or Thessaly, with an archbishop's see of the Greek church, a palace, and several handsome mosques. According to Virgil, it was the country of Achilles. It was also the place where Philip the father of Alexander the Great resided.—The inhabitants carry on a considerable trade. The city is agreeably seated on the river Peneus, in E. Long. 23. 36. N. Lat. 38. 51.

LARIX, the LARCH-TREE. See PINUS.

LARK, in ornithology. See ALAUDA, and BIRD-Catching.

The lark is not only a very agreeable bird for the cage, but will live upon almost any food, so that it have once a week a fresh tuft of three-leaved grass. The proper method of keeping them in health is this: there must be two pans of food, the one containing meat, the other oatmeal and hempseed. A very good food is the following: boil an egg very hard, to which add the crumb of a halfpenny loaf, and as much hempseed; let the egg be chopped very small, and the hempseed bruised in the mortar; when these are mixed, the bread is to be crumbled in among the rest, and the whole to be rolled together with a common rolling-pin, and kept for use. There must be some fine small gravel strewed at the bottom of the cage, and renewed at farthest once in a week. This will prevent the bird's feet from getting hurt by being clogged with the dung; and his basking in this will keep him also from growing lousy, after which few come to good. There must be a perch in the cage, and it must either be lined with green bays, or made of fine matting, which the lark is very fond of. When the bird is first taken, some meat must be strewed upon the sand in the bottom of the cage; for it will be sometimes almost famished before it finds the meat in the pan.

The cock-bird of this kind is known from the hen by the loudness and length of his call, by his tallness as he walks about the cage, and by his doubling his notes in the evening, as if he was going with his mate to roost. A better rule than all others, however, is his singing strong; for the hen wood-lark sings but very weakly.—Both the cock and hen of this kind are subject to many disorders; the principal of these are cramps, giddiness of the head, and breeding lice. Cleanliness is the best cure for the first and the last of these complaints; but we know of no cure for the other. A good strong bird, however, will often last very well five or six years, and improve all the time.

LARKSPUR. See DELPHINIUM.

LARRIBUNDAR, a sea-port town of Asia, in Indostan; seated at the mouth of the river Sinda, or Indus, with a harbour capable of receiving ships of 200 tons burden. It is but a small place, consisting of about 100 houses built with wood; but has a stone fort, with a few guns. E. Long. 67. 0. N. Lat. 25. 0.

LARVA, in natural history, a name given by Linnaeus to insects in that state, called by other writers *eruca* or *caterpillar*. See Transformation of INSECTS.

LARVÆ,

Larine
||
Larva.

Larvæ

Larus.

LARVÆ, in antiquity, derived from the Hetruscan word *lar* or *lars*, signifying "prince or lord," denoted the ghosts of the deceased, considered as wicked and mischievous. Hence is formed the term *larvatus*, i. e. *larvâ indutus* or *demoniac*. The ingenious Mr Farmer urges the etymology and use of this term to prove, that the heathen demons were human ghosts.—The larvæ were also called *lemures*.

LARVÆ, in mineralogy, the same with petrifications. See PETRIFICATIONS.

Plates

CCLXIV.

CCLXV.

LARUS, the GULL, in ornithology; a genus belonging to the order of anseres, the characters of which are these: The bill is strait, cultrated, a little crooked at the point, and without teeth; the inferior mandible is gibbous below the apex; the nostrils are linear, a little broader before, and situated in the middle of the beak. The different species are principally distinguished by their colour.

1. The marinus, or black-backed gull, is in length 29 inches; in breadth five feet nine. The bill is very strong and thick, and almost four inches long; the colour a pale yellow; but the lower mandible is marked with a red spot, with a black one in the middle. The head, neck, whole under-side, tail, and lower-part of the back, are white: the upper-part of the back, and wings, are black; the quill-feathers tipped with white, the legs of a pale flesh-colour. It inhabits several parts of England, and breeds on the highest cliffs. The egg is blunt at each end; of a dusky olive-colour; quite black at the greater end, and the rest of it thinly marked with dusky spots. It is also common on most of the northern coasts of Europe. It frequents Greenland; but chiefly inhabits the distant rocks. It lays three eggs in May, placing them on the heaps of dung which the birds leave there from time to time. It is said to attack other birds, and to be particularly an enemy to the eider duck. It very greedily devours carrion, though the most general food is fish. It is common also in America, as low as south Carolina, where it is called the *old wife*.

2. The cataractes, or Skua gull, is in length two feet; the extent four feet and a half; the weight three pounds: the bill is two inches one-fourth long, very much hooked at the end, and very sharp; the upper mandible covered more than half-way with a black cere or skin, as in the hawk kind; the nostrils are placed near the bend, and are pervious. The feathers on the head, neck, back, scapulars, and coverts of the wings, are of a deep brown, marked with rust-colour (brightest in the male). The breast, belly, and vent, are ferruginous, tinged with ash-colour. The tail when spread is circular, of a deep brown, white at the root, and with shafts of the same colour. The legs are covered with great black scaly: the talons black, strong, and crooked; the interior remarkably so.—This bird inhabits Norway, the Ferroe isles, Shetland, and the noted rock Foula a little west of them. It is also a native of the South Sea. It is the most formidable of the gulls; its prey being not only fish, but, what is wonderful in a web-footed bird, all the lesser sort of water-fowl, such as teal, &c. Mr Schroter, a surgeon in the Ferroe isles, relates that it likewise preys on ducks, poultry, and even young lambs. It has all the fierceness of the eagle in defending its young; when

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the inhabitants of those islands visit the nest, it attacks them with great force, so that they hold a knife erect over their heads, on which the skua will transfix itself in its fall on the invaders. The Rev. Mr Low, minister of Birsá in Orkney, confirmed part of the above account: On approaching the quarters of these birds, they attacked him and his company with most violent blows; and intimidated a bold dog of Mr Low's in such a manner, as to drive him for protection to his master. The natives are often very rudely treated by them while they are attending their sheep on the hills; and are obliged to guard their heads by holding up their sticks, on which the birds often kill themselves. In Foula it is a privileged bird, because it defends the flocks from the eagle, which it beats and pursues with great fury; so that even that rapacious bird seldom ventures near its quarters. The natives of Foula on this account lay a fine on any person who destroys one: they deny that it ever injures their flocks or poultry; but imagine it preys on the dung of the arctic and other larger gulls, which it persecutes till they moot for fear.—These birds are also frequent in many high latitudes of the southern hemisphere: our circumnavigators met with them in Falkland isles, particularly about Port Egmont, whence called *Port Egmont hens*. In this place, and at Terra del Fuego, they were observed to make their nests among the dry grass. After breeding-time, they disperse over the ocean, and for the most part are seen in pairs. They are met with in Kerguelen's land, and off the Cape of Good Hope, and other parts. In all places its manners are the same in respect to ferocity: it is frequently seen to attack the largest albatrosses, beating it with great violence so long as it remains on the wing; at which time this cowardly giant finds no other resource than to settle on the water; upon which the skua flies away.

3. The parasiticus, or dung-hunter, is in length 21 inches. The bill is an inch and a half long, pretty much hooked, and of a dusky colour: the nostrils are placed in a kind of cere: the top of the head is black; the sides of it, forehead, neck, and all beneath, white: across the breast there is a pale dusky bar: the upper parts of the body, wings, and tail, are black; the base of the quills white on the inner webs; and the two middle feathers of the tail are near four inches longer than the rest: the legs are scaly, not very stout; the colour of them is black. The female is said to be entirely brown, palest beneath; and the middle tail feathers only two inches longer than the others. This is a northern species; and very common in the Hebrides, where it breeds on heath. It comes in May, and retires in August; and if disturbed flies about like the lapwing, but soon alights. It is also found in the Orkneys; and on the coasts of Yorkshire, where it is called the *feaser*. It is met with likewise on the northern coasts of Sweden, Denmark, and Russia, as far as Kamtchatka; and it is common in Greenland, where it frequents the open sea, as well as the bays. The female makes an artless nest of grass and moss, on a hillock in some marshy place, and lays two ash-coloured eggs, spotted with black, the size of those of a hen. This bird does not often swim, and flies generally in a slow manner, except it be in pursuit of other birds; which it often attacks, in order to make them dis-

4 D

gorge

Larus.

Larus.

gorge the fish or other food, which this common plunderer greedily catches up. Most authors have told us, that it is the dung of the birds which it searches after in the pursuit; but latter observations inform us that the circumstance is not true; though, from the supposition of its being so, the bird has obtained the name of *strunt-jager*.

4. The fuscus, or herring-gull, weighs upwards of 30 ounces; the length 23 inches, its breadth 52: the bill is yellow, and the lower mandible marked with an orange-coloured spot: the back and coverts of the wings are ash-coloured; the upper part of the five first quill-feathers are black, marked with a white spot near their end; the legs of a pale flesh-colour. These birds breed on the ledges of rocks that hang over the sea: they make a large nest of dead grass; and lay three eggs of a dirty white, spotted with black. The young are ash-coloured, spotted with brown. They do not come to their proper colour the first year: this is common to other gulls; which has greatly multiplied the species among authors, who are inattentive to these particulars. This gull is a great devourer of fish, especially of that from which it takes its name: it is a constant attendant on the nets, and so bold as to seize its prey before the fishermen's faces.—The herring gull is common in this kingdom, and frequents the same places as the black-backed. It is also found in most of the northern parts of Europe, as well as about the Caspian and Black seas and the rivers which fall into them, and about the great lakes of Siberia. It is found likewise in Iceland, Greenland, and Hudson's Bay. In winter it migrates south, being found in Jamaica; and is said to breed on some of the islands on the coast of South Carolina.

5. The *nævus*, or wagel, is a large species, being near two feet in length, and in breadth about five; weight, near three pounds. The bill is black; two inches and a half long: the irides are dusky: the whole plumage is composed of a mixed brown, ash-colour, and white; the middle of each feather brown: the under parts of the body are the same, but paler: the quills are black: the lower part of the tail is mottled black and white; near the end is a bar of black, and beyond this the end is white: the legs are of a dirty flesh-colour, in some white.—This species frequents the sea-shores of many parts of England, though not in any considerable numbers. At times it is seen on the banks of the Thames along with other gulls; and is there supposed to be the female of the black-backed: but this has not yet been determined sufficiently by authors.

6. The *hybernus*, or winter-gull, winter-mew, or caddy-moddy, weighs from 14 to 17 ounces: the length 18 inches, the breadth three feet nine. The irides are hazel: the bill is two inches long, but the slenderest of any gull; black at the tip, and whitish towards the base. The crown of the head, and hind-part and sides of the neck, are white, marked with oblong dusky spots; the forehead, throat, middle of the breast, belly, and rump, white; the back and scapulars of a pale grey, the last spotted with brown: the coverts of the wings are of a pale brown, edged with white; the first quill-feather is black, the succeeding ones are tipped with white: the tail is white, crossed near the

end with a black bar; the legs are of a dirty bluish white. This kind frequents, during winter, the moist meadows in the inland parts of England, remote from the sea. The gelatinous substance, known by the name of *star-shot*, or *star-gelly*, owes its origin to this bird, or some of the kind; being nothing but the half digested remains of earth-worms, which these birds feed on, and often discharge from their stomachs.

7. The *canus*, or common gull, is in length 16 or 17 inches; in breadth 36; weight one pound. The bill is yellow: the irides are hazel, and the eye-lids brown: the head, neck, under parts of the body, and tail, are white; the back and wings, pale grey: the outer edge of the four first quills, and tips of the first five, are black; but the fourth and fifth have a white spot at the tips; the rest, except the three nearest the body, have the ends white: the legs are of a dull greenish white. This seems to be the most common of all the gulls, being found in vast numbers on our shores and rivers which are contiguous to the sea. It is seen also very far north, as far as Iceland and the Russian lakes: it is met with in the neighbourhood of the Caspian Sea, in various shores of the Mediterranean, and as far south as Greece: and it is found also in America, on the coast of Newfoundland. It breeds on the rocks and cliffs, like others of the genus; and the eggs are two inches and a half in length, of a deep olive brown, marked with irregular deep reddish blotches. It is a tame species, and may be seen by hundreds on the shores of the Thames and other rivers, in the winter and spring, at low tides, picking up the various worms and small fish left by the tides; and will often follow the plough in the fields contiguous, for the sake of worms and insects which are turned up, particularly the cockchafer or dorbeetle in its larvæ state, which it joins with the rooks in devouring most greedily.

8. The *tridactylus*, or tarrock, is in length 14 inches, breadth 36; weight seven ounces. The bill is short, thick, and black: the head, neck, and under parts, are white: near each ear, and under the throat, there is a black spot; and at the hind part of the neck a crescent of black: the back and scapulars are bluish grey; the wing-coverts dusky edged with grey, some of the larger wholly grey: the exterior sides and ends of the first four quills are black, tips of the two next black, all the rest white: the ten middle feathers of the tail are white tipped with black, the two outermost wholly white: the legs are of a dusky ash-colour; in lieu of the back toe, it has only a protuberance. This breeds in Scotland with the kittiwake; and inhabits other parts of northern Europe, quite to Iceland and Spitzbergen, the Baltic and White Sea, as also Kamtchatka. It is common in Greenland in summer. It comes in spring, and frequents the sea-shores; builds in the rocky crags of the bays; in June lays two eggs of a greenish ash-colour spotted with brown; and retires from the shores in autumn. It is observed frequently to attend the whales and seals, for the sake of the fish which the last drive before them into the shallows, when these birds dart into the water suddenly and make them their prey. They are very noisy birds, especially during the time of incubation. They swim well, and fly equally well, and for a long time together: they are often observed

Larus.

Larus.

on portions of ice swimming in the sea. Both the flesh and eggs are esteemed by the Greenlanders, and the skins used as garments.

9. The rissa, or kittiwake, is in length 14 inches, in extent three feet two. When arrived at full age, the head, neck, belly, and tail, are of a snowy whiteness; behind each ear is sometimes a dusky spot: the back and wings are grey: the exterior edge of the first quill-feather, and tips of the four or five next, are black: the bill is yellow, tinged with green; and the inside of the mouth is orange: the legs are dusky, with only a knob instead of the back-toe. It inhabits the romantic cliffs of Flamborough-head (where it is called *petrel*), the Bass isle, the vast rocks near the castle of Slains in the county of Aberdeen, and Priestholm isle. The young of these birds are a favourite dish in North Britain, being served up roasted, a little before dinner, in order to provoke the appetite; but from their rank taste and smell, seem much more likely to produce a contrary effect. This bird is likewise met with at Newfoundland; in Greenland, Spitzbergen, Iceland, and the north of Europe; the arctic coast of Asia; and Kamtchatka. By the Icelanders it is called *ritsa*. Some authors affirm the kittiwake to be the tarrock in a state of perfection; while others maintain the contrary.

10. The ridibundus, pewit, or black-head gull, is in length 15 inches, breadth three feet; weight 10 ounces. The bill is rather slender, and of a blood-red: the eye-lids are red, and the irides hazel: the head and throat are dusky brown, in old birds black; and on each eye-lid is a small white spot: the back and wings are of an ash-colour: the neck, all the under parts, and tail, are white: the ten first quills are white, margined and more or less tipped with black; the others of an ash-colour, with white ends: the legs are of the colour of the bill, the claws black. This species breeds on the shores of some of our rivers; but full as often in the inland fens of Lincolnshire, Cambridge-shire, and other parts of England. They make their nest on the ground, with rushes, dead grass, and such like; and lay three eggs of a greenish brown marked with red brown blotches. After the breeding season, they again disperse to the sea-coasts. They breed also in Northumberland and Scotland; and are found throughout Russia and Siberia, as far as Kamtchatka, but not farther to the north. They are seen throughout the winter at Aleppo, in great numbers; and so tame, that the women are said to call them from the terraces of their houses, throwing up pieces of bread, which these birds catch in the air. They inhabit North America, coming into New England in May and departing in August. The young birds in the neighbourhood of the Thames are thought good eating, and are called the *red-legs*. They were formerly more esteemed, and numbers were annually taken and fattened for the table. Plott gives a marvellous account of their attachment to the lord of the soil they inhabit; inasmuch, that on his death they never fail to shift their quarters for a certain time. Whitelock, in his Annals, mentions a piece of ground near Portsmouth, which produced to the owner 40l. a-year by the sale of pewits; or this species of gull. These are the *see-gulles* that in old times were admitted to the

noblemens tables. The note of these gulls is like a hoarse laugh.

11. The atricilla, or laughing-gull, is in length 18 inches, breadth three feet. It differs from that bird only in the legs, which are black instead of red. It is found in Russia on the river Don, particularly about Tschercask. The note resembles a coarse laugh, whence the name of the bird. Is met with also in different parts of the continent of America; and is very numerous in the Bahama islands.

There are 9 or 10 other species of this genus.

LARYNX, in anatomy, the upper part of the wind-pipe. See ANATOMY, n° 116.

LASCARIS (Andrew John), surnamed *Ryndacenus*, of an ancient Greek family, went into Italy, after the taking of Constantinople by the Turks in 1453. He was well received by Laurence de Medicis, a distinguished protector of learned men; and was twice sent to Constantinople to collect the best Greek manuscripts, by which means numberless scarce and valuable treasures of literature were carried into Italy. At his return Louis XII. king of France prevailed on him to settle in the university of Paris, and sent him twice ambassador to Venice. Ten years after, cardinal John de Medicis being elected pope, under the name of *Leo X.* John Lascaris, his old friend, went to Rome, and had the direction of a Greek college. He died at Rome in 1535, at about the 90th year of his age. He brought into the West most of the fine Greek manuscripts that are now extant, and composed some epigrams in Greek and Latin.

LASCARIS (Constantine), one of the Greeks who were principally concerned in the revival of learning in the West, retired into Italy in 1454, and taught polite literature at Milan, whither he was called by Francis Sforza; he afterwards went to Rome, where he was well received by Cardinal Bessarion. He afterwards taught rhetoric and the Greek tongue at Naples; and ended his days at Messina, leaving the senate of that city many excellent manuscripts which he had brought from Constantinople. He was interred at the public expence, and the senate of Messina erected a marble tomb to his memory. He wrote some grammatical works.

LASERPITIUM, LAZAR-WORT: A genus of the digynia order, belonging to the pentandria class of plants; and in the natural method ranking under the 45th order, *Umbellatæ*. The fruit is oblong, with eight membranaceous angles; the petals inflexed, emarginated, and patent. There are nine species, none of which are at all remarkable for their beauty, so are only preserved in botanic gardens for the sake of variety. They are natives of Germany, Italy, and the south of France. All of them abound with an acrid juice, which turns to an excessively acrimonious resin. This was used by the ancients to take away black and blue spots that came by bruises or blows, as also to take away excrescences: it was also by some of the ancients used internally; but produced such violent effects, that the more prudent refrained from the use of it. It is generally supposed that the silphium of the ancients was procured from one of the species of this genus; but of this we are at present ignorant.

LASH, or LACE, in the sea-language, signifies to

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bind

Larynx

Lalh.

Lassitude
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Latere.

bind and make fast; as, to lash the bonnet to the course, or the drabber to the bonnets; also the carpenter takes care that the spare yards be lashed fast to the ship's side; and in a rolling sea, the gunners mind that the guns be well lashed, lest they should break loose. Lashers are properly those ropes which bind fast the tackles and the breechings of the ordnance, when hauled or made fast within-board.

LASSITUDE, or WEARINESS, in medicine, a morbid sensation, that comes on spontaneously, without any previous motion, exercise, or labour. This is a frequent symptom in acute distempers: it arises either from an increase of bulk, a diminution of proper evacuation, or too great a consumption of the fluids necessary to maintain the spring of the solids, or from a vitiated secretion of that juice.

LASSUS, or LASUS, a dithyrambic poet, born at Hermione in Peloponnesus about 500 years before Christ. He is reckoned among the wise men of Greece by some. He is particularly known by the answer he gave to a man who asked him what could best render life pleasant and comfortable? Experience. He was acquainted with music. Some fragments of his poetry are to be found in Athenæus. He wrote an ode upon the Centaurs, and an hymn to Ceres, without inserting the letter S in the composition.

LAST, in general, signifies the burden or load of a ship. It signifies also a certain measure of fish, corn, wool, leather, &c. A last of codfish, white herrings, meal, and ashes for soap, is twelve barrels; of corn or rapeseed, ten quarters; of gunpowder, twenty-four barrels; of red herrings, twenty cades; of hides, twelve dozen; of leather, twenty dickers; of pitch and tar, fourteen barrels; of wool, twelve sacks; of stock-fish, one thousand; of flax or feathers, 1700lb.

LASTAGE, or LESTAGE, a duty exacted in some fairs and markets, for carrying things bought whither one will. It signifies also the ballast or lading of a ship; and sometimes is used for garbage, rubbish, or such like filth.

LATERAN was originally the proper name of a man: whence it descended to an ancient palace in Rome, and to the buildings since erected in its place; particularly a church called *St John of Lateran*, which is the principal see of the popedom.

Councils of the LATERAN, are those held in the basilica of the Lateran: of these there have been five, held in 1123, 1139, 1179, 1215, and 1513.

Canons Regular of the Congregation of the LATERAN, is a congregation of regular canons, whereof that church is the principal place or seat.

It is pretended there has been an uninterrupted succession of clerks, living in community from the time of the apostles: and that a number of these were established in the Lateran in the time of Constantine. But the canons were not introduced till the time of Leo I. and these held the church 800 years, till the reign of Boniface, who took it from them, and placed secular canons in their room: 150 years after, the regulars were reinstated.

A LATERE, a term used to denote the qualifications of the cardinals whom the pope sends as legates into foreign countries. They are called *legates a latere*, as being his holiness's assistants and counsellors in ordinary. These are the most considerable of the

other three kinds of legates, being such as the pope commissions to take his place in councils; and so called, in regard that he never gives this office to any but his favourites and confidants, who are always *a latere*, at his side. A legate a-latere has the power of conferring benefices without a mandate, of legitimating bastards to hold offices, and has a cross carried before him as the ensign of his authority.

De LATERE, legates who are not cardinals, but yet are entrusted with an apostolical legation. See the article LEGATE.

LATE-WAKE, a ceremony used at funerals in the Highlands of Scotland. The evening after the death of any person, the relations and friends of the deceased meet at the house, attended by bagpipe or fiddle; the nearest of kin, be it wife, son, or daughter, opens a melancholy ball, dancing, and *greeting* (i. e. crying violently) at the same time, and this continues till daylight; but with such gambols and frolics among the younger part of the company, that the loss which occasioned them is often more than supplied by the consequences of that night. If the corpse remains unburied for two nights, the same rites are renewed. Thus, Scythian-like, they rejoice at the deliverance of their friends out of this life of misery.

LATEEN-SAIL, a long triangular sail extended by a lateen yard, and frequently used by xebecs, poleacres, fetees, and other vessels navigated in the Mediterranean sea.

LATH, in building, a long, thin, and narrow slip of wood nailed to the rafters of a roof or ceiling, in order to sustain the covering.

LATH-Bricks, a particular sort of bricks made in some parts of England, of 22 inches in length and 6 in breadth, which are used in the place of laths or spars, supported by pillars in casts, for the drying of malt. This is an excellent contrivance; for besides that they are not liable to fire, as the wooden laths are, they retain the heat vastly better; so that being once heated, a very small quantity of fire will serve to keep them so.

LATHE, a very useful engine for the turning of wood, ivory, metals, and other materials. (See TURNING.) The invention of the lathe is very ancient: Diodorus Siculus says, the first who used it was a grandson of Dædalus, named Talus. Pliny ascribes it to Theodore of Samos; and mentions one Thericles, who rendered himself very famous by his dexterity in managing the lathe. With this instrument the ancients turned all kinds of vases, many whereof they enriched with figures and ornaments in basso relievo. Thus Virgil:

Lenta quibus torno facili superaddita vitis.

The Greek and Latin authors make frequent mention of the lathe; and Cicero calls the workmen who used it *vascularii*. It was a proverb among the ancients, to say a thing was formed in the lathe, to express its delicacy and justness.

The lathe is composed of two wooden cheeks or sides, parallel to the horizon, having a groove or opening between; perpendicular to these are two other pieces called *puppets*, made to slide between the cheeks, and to be fixed down at any point at pleasure. These have two points, between which the piece to be turned is sustained; the piece is turned round, backwards

Latere
||
Lathe.

Lathraea

||
Latiar.

backwards and forwards, by means of a string put round it, and fastened above to the end of a pliable pole, and underneath to a treadle or board moved with the foot. There is also a rest which bears up the tool, and keeps it steady.

As it is the use and application of this instrument that makes the greatest part of the art of turning, we refer the particular description thereof, as well as the manner of applying it in various works, to that head. See TURNING.

LATHRÆA, in botany: A genus of the angiospermia order, belonging to the didynamia class of plants; and in the natural method ranking under the 40th order, *Personata*. The calyx is quadrid; there is a depressed glandule at the base of the future of the germen. The capsule is unilocular.

LATHREVE, **LEIDGREVE**, or **TRITHENGREVE**, was an officer under the Saxon government, who had authority over a third part of the county; and whose territory was therefore called *trithing*, otherwise a *leid* or *leithin*, in which manner the county of Kent is still divided; and the rapes in Suffex seem to answer to the same. As to the jurisdiction of this officer, those matters that could not be determined in the hundred court, were thence brought to the trithing; where all the principal men of the three or more hundreds being assembled by the *lathreve*, or *trithingreve*, did debate and decide it; or if they could not, then the *lathreve* sent it up to the county court, to be there finally determined.

LATHYRUS, **CHICKLING**: A genus of the decandria order, belonging to the diadelphia class of plants; and in the natural method ranking under the 32d order, *Papilionacea*. The stylus is plain, villous above, towards the end broader; the upper two segments of the calyx are shorter than the rest.

Species. 1. The *latifolius*, or everlasting pea, hath thick, fibrous, perennial roots; climbing, thick, branching annual stalks, having membranaceous wings between the joints, rising upon support by their cirri fix or eight feet high; diphyllous leaves, of two spear-shaped lobes, terminated by clasps; and numerous large red or purple flowers on long foot stalks, appearing plentifully from June till October, succeeded by abundance of seed. 2. The *odorata*, or sweet-scented pea, hath a fibrous annual root; a climbing stalk, rising upon support by its clasps three or four feet high; diphyllous leaves of two oval lobes, terminated by climbing tendrils; and flowers by two's on long flower stalks, of different colours in the varieties. 3. The *tangitanus*, or Tangier-pea, hath a fibrous annual root, a climbing stalk rising upon support for four or five feet high; diphyllous leaves, of two spear-shaped alternate lobes, terminated by tendrils; and from the joints of the stalk large reddish flowers by two's on long foot stalks.

Culture. All these species are of hardy growth; and may be propagated by seed in the common ground, in patches where it is designed the plants should flower, for they do not succeed so well by transplantation. They may be sowed in spring; though, if sowed in autumn, the plants will flower earlier the following year.

LATIAR, in Roman antiquity, a feast or ceremony instituted by Tarquinius Superbus, in ho-

nour of Jupiter Latiaris or Latialis. — Tarquin having made a treaty of alliance with the Latins, proposed, in order for perpetuating it, to erect a common temple, where all the allies, the Romans, Latins, Hernici, Volsci, &c. should assemble themselves every year, hold a kind of fair, exchange merchandizes, feast, sacrifice, and make merry together. Such was the institution of the Latiar. The founder only appointed one day for this feast; the first consul added another to it, upon concluding the peace with the Latins; and a third was added after the people who had retired to the Mons Sacer were returned to Rome; and a fourth, after appeasing the sedition raised on occasion of the plebeians aspiring to the consulate.

These four days were called the *Latin feriæ*; and all things done during the course of the feriæ, as feasts, sacrifices, offerings, &c. were called *Latiares*.

LATICLAVE, (*Laticlavium*), in Roman antiquity, was an honourable distinction, peculiar in the times of the republic, to the senators; but whether it was a particular kind of garment, or only an ornament upon it, the critics are not agreed: But the more general opinion is, that it was a broad stripe of purple sewed upon the fore-part of their tunic, and round the middle of the breast. There were buttons set on the *latus clavus* or *laticlave*, which appeared like the heads of large nails, whence some think it derived its name. — The senators, prætors, and chief magistrates of colonies and municipal cities, had a right to wear it. The prætexta was always worn over it; but when the prætor pronounced sentence of death, the prætexta was then put off, and the laticlave retained. The *laticlavium* differed from the *angusticlavium*, but authors do not agree in what respect this difference consisted; the most general opinion seems to be, that the slips or stripes of purple were narrower in the angusticlave.

LATIMER (Hugh), bishop of Worcester, was born about the year 1480 at Thurcaston in Leicestershire, the only son of a yeoman of that village. At the age of fourteen he was sent to Christ's college, Cambridge; where he applied himself to the study of divinity, and in proper time took the degree of bachelor in that science. At this time he was a zealous Papist, and was honoured with the office of keeper of the cross to the university: but when he was about thirty years of age, he became a convert to the Protestant religion; and being now one of the twelve licensed preachers from Cambridge, he promulgated his opinions with great freedom. It was not long before he was accused of heresy; and being summoned before cardinal Wolsey, was obliged to subscribe certain articles of faith, which he certainly did not believe. About the year 1529 he was presented by the king to the rectory of Westkinton in Wiltshire; to which place, after residing some time at court with his friend and patron Dr Butts, he retired; but, resuming his former invectives against the Popish doctrines, he was again summoned to answer certain interrogatories, and again obliged to subscribe. In 1535 he was promoted to the bishopric of Worcester; in the possession of which dignity he continued till the year 1539, when, rather than assent to the act of the six articles, he resigned his mitre, and retired into the country; but was in a short time accused of speaking against the six articles,

Laticlave,
Latimer.

Latimer,
Latin.

articles, and committed to the Tower, where he continued prisoner till the death of Henry VIII. which happened in January 1547. On the accession of Edward VI. Latimer was released, but not restored to his bishopric, though he preached several times before the king, and continued to exercise his ministerial function with unremitting zeal and resolution. Young Edward, alas! finished his short reign in 1553; and Mary, of infamous memory, ascending the throne, poor Latimer was immediately doomed to destruction, and, together with Cranmer and Ridley, confined in the Tower. In April 1554, they were removed to Oxford, that they might dispute with the learned doctors of both universities. Latimer declining the disputation on account of his great age and infirmities, delivered his opinion in writing; and refusing to subscribe the Popish creed, was condemned for heresy; and in October following was, together with bishop Ridley, burnt alive. He behaved with uncommon fortitude on the occasion, and died a real martyr to the Reformation. His general character is that of a learned, virtuous, and brave man. His works are, 1. Sermons, 1635, fol. 2. Letters; in Fox's Acts and Monum. vol. ii. fol. 1580. 3. An injunction to the prior and convent of St Mary's in Worcestershire. See record at the end of Burnet's History of the Reformation, part ii. p. 293.

LATIN, a dead language, first spoken in Latium, and afterwards at Rome; and still used in the Romish church, and among many of the learned.

This language is principally derived from the Greek, and particularly from the Eolic dialect of that tongue, though it has a great number of words which it borrowed from the languages of the Etrusci, Osce, and other ancient people of Italy; and foreign commerce and wars, in course of time, added a great many more.

The Latin is a strong nervous language, perfectly suitable to the character of the people who spoke it: we have still works of every kind admirably well written in the Latin, though there are vast numbers lost.

The Latin tongue was for a while confined almost wholly within the walls of Rome; nor would the Romans allow the common use of it to their neighbours, or to the nations they subdued: but by degrees they in time became sensible of the necessity of its being generally understood for the convenience of commerce; and accordingly used their endeavours, that all the nations subject to their empire should be united by one common language; so that at length they imposed the use of it by a particular law for that purpose. After the translation of the seat of the empire from Rome to Constantinople, the emperors of the east, being always desirous of retaining the title of Roman emperors, appointed the Latin to be still used; but at length neglecting the empire of the west, they abandoned all care of the Latin tongue, and used the Greek. Charlemagne coming to the empire of the west, revived this language; but at length it gave way, and the French took place of the Latin: it was, however, prodigiously degenerated before it came to be laid aside, in which condition it was found at the time of the Reformation, when Vives, Erasmus, &c. began to open the way for its recovery: since which time the monkish latinity has

been declining, and all endeavours have been used to retrieve the pure language of the Augustan age. See LANGUAGE.

LATIN-Church. See CHURCH.

LATINS, an ancient nation of Italy. See LATIUM.

LATINUS, king of the Latins in Italy, was the son of Faunus; and, it is said, began to reign about the 1216th year before the Christian era. Lavinia, his only daughter, married Æneas, after that Trojan prince had killed Turnus king of the Rutuli. See ROME.

LATISSIMUS, in anatomy, the name of several muscles. See ANATOMY, *Table of the Muscles*.

LATITUDE, in astronomy, is the distance of a star north or south from the ecliptic. In geography it signifies the distance of any place north or south, from the equator. See ASTRONOMY and GEOGRAPHY, *passim*.

LATITUDINARIAN, a person of moderation with regard to religious opinions, who believes there is a latitude in the road to heaven, which may admit people of different persuasions.

LATIUM (anc. geog.), the country of the Latins, at first contained within very narrow bounds, but afterwards increased by the accession of various people. The appellation, according to Virgil, is a *latendo*, from Saturn's lying hid there from the hostile pursuits of his son Jupiter; and from *Latium* comes the name *Latini*, the people, (Virgil): though Dionysius Halicarnassæus derives it from king Latinus, who reigned about the time of the Trojan war. But whatever be in this, it is certain, that Latium, when under Æneas and his descendents, or the Alban kings, contained only the Latins, exclusive of the Æqui, Volsci, Hernici, and other people; only that Æneas reckoned the Rutuli, after their conquest, among the Latins. And this constituted the ancient *Latium*, confined to the Latins: but afterwards, under the kings, and after their time, it reached from the Tiber to Circeii. Under the consuls, the country of the Equi, Volsci, Hernici, &c. after long and bloody wars, was added to Latium, under the appellation *adjectitious* or *superadded Latium*, as far as the river Liris, the eastern boundary, and to the north as far as the Marci and Sabines. The various people, which in succession occupied Latium, were the Aborigines, the Pelasgi, the Arcades, the Siculi, the Arunci, the Rutuli; and beyond Circeii, the Volsci, the Osce, the Ausones: but who first, who next, occupied the country, it is difficult to say.

LATMUS (anc. geog.), a mountain of Ionia, or on the confines of Caria, famous for the fable of Endymion, of whom the Moon was said to be enamoured: hence called *Latmius Heros*, and *Latmius Venator*. In the mountain was a cave in which Endymion dwelt (Scholiast on Apollonius Rhodius). Supposed by Hecatæus to be the *Phtheiron Mons* of Homer; but by others to be *Grius Mons*, nor far from Latmus (Strabo.)

LATOMIA, properly signifies a *stone quarry*: But the places whence stones had been dug having been made use of sometimes as dungeons, jails, or prisons for criminals, it is oftentimes applied as a name for

Latins
||
Latomia.

Latona for a prison. There was a place of confinement of this sort at Rome, near the Tullianum; another at Syracuse, in which Cicero says Verres had shut up Roman citizens.

LATONA, in mythology, a pagan goddess, whose history is very obscure. Hesiod makes her the daughter of Titan Coëus and Phœbe his sister. She was admired for her beauty, and celebrated for the favours which she granted to Jupiter. Juno, always jealous of her husband's amours, made Latona the object of her vengeance, and sent the serpent Python to disturb her peace and persecute her. Latona wandered from place to place in the time of her pregnancy, continually alarmed for fear of Python. She was driven from heaven; and Terra, influenced by Juno, refused to give her a place where she might rest and bring forth. Neptune, moved with compassion, struck with his trident and made immoveable the island of Delos, which before wandered in the Ægean, and appeared sometimes above, and sometimes below, the surface of the sea. Latona, changed into a quail by Jupiter, came to Delos; where she resumed her original shape, and gave birth to Apollo and Diana, leaning against a palm tree or an olive. Her repose was of short duration: Juno discovered the place of her retreat, and obliged her to fly from Delos. She wandered over the greatest part of the world; and in Caria, where her fatigue compelled her to stop, she was insulted and ridiculed by the peasants of whom she asked for water while they were weeding a marsh. Their refusal and insolence provoked her, and she intreated Jupiter to punish their barbarity. They were all changed into frogs. She was also insulted by Niobe; who boasted herself greater than the mother of Apollo and Diana, and ridiculed the presents which the piety of her neighbours had offered to Latona. At last, Latona, though persecuted and exposed to the resentment of Juno, became a powerful deity, and saw her children receive divine honours. Her worship was generally established where her children received adoration; particularly at Argos, Delos, &c. where she had temples. She had an oracle in Egypt, celebrated for the true and decisive answers which it gave. Latona, Venus, and Diana, were the three goddesses most in veneration among the Roman women.

LATRIA, in theology, a religious worship due only to God. See ADORATION.

The Romanists say, "They honour God with the worship of *latria*, and the saints with the worship of *dulia*." But the terms, however distinct, are usually confounded.

The worship of *latria*, besides its inner characters, has its external marks to distinguish it; the principal whereof is sacrifice, which cannot be offered to any other but God himself, as being a solemn acknowledgment or recognition of the sovereignty of God, and our dependence on him.

Mr Daille seems to own, that some of the fathers of the fourth century allowed the distinction between *latria* and *dulia*.

LATRINÆ, were public houses of office, or necessities, amongst the Romans. We do not find, in the writings or buildings that remain of antiquity, that they had any privies in their dwellings. The latrinæ

were public places where the slaves washed and emptied their master's close-stools. We are pretty well assured that the Romans had public places of convenience, which were covered over, and had a sponge hanging up in them for cleanliness. Rich men had close-stools, which were taken away occasionally to the common shores.

LATRUNCULI, a game amongst the Romans, of much the same nature with our chess. The *latrunculi* were properly the chess-men, called also *latrones* and *calculi*. They were made of glass, and distinguished by black and white colours. Sometimes they were made of wax or other convenient substances. Some give the invention of this game to Palamædes when at the siege of Troy; Seneca attributes it to Chilon, one of the seven Grecian sages; others honour Pyrrhus with the invention; and others again contend that it is of Persian origin—but is not this *Lis de lana caprina*? Frequent allusions to this game are met with in the Roman classics, and a little poem was wrote upon it addressed to Piso, which some say was the work of Ovid, others of Lucan, in the end of some editions of whose works it is to be found, and to which we refer for a fuller account of the game. This game expresses so well the chance and order of war, that it is, with great appearance of probability, attributed to some military officer as the inventor. One Canius Julius was so exceedingly fond of chess, that after he was sentenced to death by Caligula, he was found playing, but interrupted in his game by a call to execution; he obeyed the summons, but first desired the centurion who brought the fatal order, to bear witness that he had one man upon the board more than his antagonist, that he might not falsely brag of victory when he should be no more.

LATTEN denotes iron-plates turned over, of which tea-cannisters are made.

Plates of iron being prepared of a proper thinness, are smoothed by rusting them in an acid liquor, as common water made eager with rye. With this liquor they fill certain troughs, and then put in the plates, which they turn once or twice a-day, that they may be equally rusted over. After this they are taken out, and well scoured with sand; and, to prevent their rusting again, are immediately plunged into pure water, in which they are to be left till the instant they are to be tinned or blanchéd; the manner of doing which is this: They flux the tin in a large iron crucible, which has the figure of an oblong pyramid with four faces, of which two opposite ones are less than the two others. The crucible is heated only from below, its upper part being luted with the furnace all round. The crucible is always deeper than the plates which are to be tinned are long; they always put them in downright, and the tin ought to swim over them; to this purpose artificers of different trades prepare plates of different shapes, though Mr Reaumur thinks them all exceptionable. But the Germans use no sort of preparation of the iron to make it receive the tin more than the keeping it always steeped in water till the time; only when the tin is melted in the crucible, they cover it with a layer of a sort of suet, which is usually two inches thick, and the plate must pass through this before it can come to the melted tin. The first use of

Latrunculi,
Latten.

Latten
H
Lava.

of this covering is to keep the tin from burning; for if any part should take fire, the fuet would soon moisten it, and reduce it to its primitive state again. The blanchers say, this fuet is a compounded matter. It is indeed of a black colour; but Mr Reaumur supposed that to be only an artifice to make it a secret, and that it is only coloured with soot or the smoke of a chimney: but he found it true so far, that the common unprepared fuet was not sufficient; for after several attempts, there was always something wanting to render the success of the operation certain. The whole secret of blanching, therefore, was found to lie in the preparation of this fuet; and this at length he discovered to consist only in the first frying and burning it. This simple operation not only gives it the colour, but puts it into a condition to give the iron a disposition to be tinned, which it does surprisingly.

The melted tin must also have a certain degree of heat: for if it is not hot enough, it will not stick to the iron; and if it is too hot, it will cover it with too thin a coat, and the plates will have several colours, as red, blue, and purple, and upon the whole will have a cast of yellow. To prevent this, by knowing when the fire has a proper degree of heat, they might try with small pieces of iron; but in general, use teaches them to know the degree, and they put in the iron when the tin is at a different standard of heat, according as they would give it a thicker or thinner coat. Sometimes also they give the plates a double layer, as they would have them very thickly covered. This they do by dipping them into the tin when very hot the first time, and when less hot the second. The tin which is to give the second coat must be fresh covered with fuet; and that with the common fuet, not the prepared.

LATTEN-Brass, plates of milled brass reduced to different thickness, according to the uses they are intended for.

LATTIMO, in the glass-trade, a name for a fine milk-white glass. There are several ways of making it, but the best of all is this: take 400 weight of crystal frit, and 60 pounds of calcined tin, and two pounds and a half of prepared manganese; mix these well with the frit, and set them in a pot in a furnace to melt and refine. At the end of 18 hours this will be purified; then cast it into water, purify it again afterwards in the furnace, and make a proof of it. If it be too clear, add 15 pounds more of calcined tin; mix it well with the metal, and let it stand one day to purify; it will then be of a whiteness surpassing even that of snow, and is fit to work into vessels.

LAVA, a stream of melted minerals which runs out of the mouths, or bursts out through the sides of burning mountains during the time of an eruption. See *ÆTNA*, *VESUVIUS*, *HECLA*, *VOLCANO*, &c.

The lava at its first discharge is in a state of prodigious ignition, greatly superior to any thing we can have an idea of from the small artificial furnaces made by us. Sir William Hamilton informs us, that the lava of Vesuvius, at the place whence it issued (in the year 1767), "had the appearance of a river of red-hot and liquid metal, such as we see in the glass-houses, on which were large floating cinders half lighted, and rolling over one another with great precipitation down the side of the mountain, forming on

Nº 175.

the whole a most beautiful and uncommon cascade." Now, if we consider the materials of which the lava consists, which undoubtedly are the common matters to be found every where in the earth, namely, stones, metallic ores, clay, sand, &c. we shall find that our hottest furnaces would by no means be able to bring them into any degree of fusion; since the materials for glass cannot be melted without a great quantity of very fusible salts, such as alkalies, nitre, &c. mixed along with them. The heat of a volcano must therefore be immense: and besides its heat, it is sometimes attended with a very uncommon circumstance; for Sir William Hamilton informs us, that "the red-hot stones thrown up by Vesuvius on the 31st of March 1766 were perfectly transparent;" and the like remark he makes on the vast stream of lava which issued from this volcano in 1779: (See *VESUVIUS*). This we cannot look upon to be the mere effect of heat; for mere heat with us will not make a solid body transparent; and these stones, we are sure, were not in a state of fusion, or the resistance of the air would have broke them all to pieces, even supposing them, which is very improbable, to have been in that state detached from the rest of the lava. For the transparency, therefore, we must have recourse to electricity; which in some of our experiments hath the property of rendering opaque bodies transparent*. Indeed it is scarce possible but the lava and every other matter thrown out of a volcano must be in the highest degree electrical, seeing the fire itself most probably takes its rise from electricity, as is shown under the article *VOLCANO*.

The lava, after having once broke out, does not constantly continue running from the same vent, but often has intermissions, after which it will burst out sometimes at the same place, and sometimes at another. No real flame ever appears to come from the lava. In the day-time its progress is marked by a thick white smoke, from which the light of the red hot matter being reflected in the night-time, makes it appear like flame. But if, during its progress, it meets with trees or other combustible substances, which it frequently does, a bright flame immediately issues from its surface, as hath also been remarked by Sir William Hamilton.—This liquid substance, after having run pure for about 100 yards (more or less, no doubt, according to different circumstances), begins to collect cinders, stones, and a scum is formed on the surface. Our author informs us, that the lava which he observed, with its scum, had the appearance of the river Thames, as he had seen it after a hard frost and a great fall of snow, when beginning to thaw, carrying down vast masses of snow and ice. In some places it totally disappeared, and ran in a subterraneous passage formed by the scum for several paces; after which it came out pure, having left the scum behind, though a new one was quickly formed. This lava at the farthest extremity from its source did not appear liquid, but like a heap of red-hot coals, forming a wall in some places 10 or 12 feet high, which rolling from the top soon formed another wall, and so on.—This was the appearance also put on by the lava which issued in the great eruption of 1783 in Iceland; with this difference, that the wall was at one time 210 feet high, and the general thickness of it was more than 100: (See *HECLA*). While a lava is in this state, Sir Wil-

Lava.

Excessive
heat of
lavas.

* See Elec-
tricity, In-
dex.

Probably
in a highly
electrified
state also.

3
Their gene-
ral appear-
ance.

Lava.

their being pressed out by the contraction of the large fragments of lava in cooling, and which had been bent downwards by their own weight. "This curious substance (says he) has the lightness of a pumice, and resembles it in every respect, except that it is of a darker colour."

When the pores of this lava were large, and filled with pure vitrified matter, the latter was sometimes found blown into bubbles on the surface; probably by the air which had been forced out at the time the lava contracted itself in cooling; and from these thin bubbles it appeared, that this kind of volcanic glass has much the same transparency with our common glass bottles, and like them is of a dirty yellow colour; but when large pieces of it were broken off with a hammer, they appeared perfectly black and opaque.

In the lava of this eruption it was observed, that many detached pieces were in the shape of a barley-corn or plum stone, small at each end, and thick in the middle. Some of these did not weigh above an ounce; but others could not be less than 60 pounds. Our author took them to be drops from the liquid fountain of fire, which might naturally acquire such a form in their fall. There were also many other curious vitrifications, different from any he had seen before, mixed with this huge shower of scoriae and masses of lava.

In treating of Mount Etna, M. Houel makes mention of a piece of lava which, after having been once ejected by the volcano, was swallowed up, and thrown out a second time. The intense heat to which it was then subjected, had such an effect upon it, that it appeared all full of chinks to a considerable depth, and which run at right angles to one another. He had also an opportunity of observing to great advantage some of the hollow channels formed by the lavas of Etna similar to those described by Sir William Hamilton, but on a much larger scale. Here the great eruption of water in 1755 had overturned, in a vertical direction, an huge tube of this kind for the length of half a mile. The tube itself appeared to be composed of enormous masses, somewhat resembling planks; each two feet thick and twelve or fifteen in breadth, continued in a straight line through the whole of that space. At the same time by the action of the lava a kind of walls had been formed, from ten to sixteen feet in height, and curved at the top. Some of these walls appear rolled together like paper; and M. Houel is of opinion, that these various appearances on the surface of the lava when cooled must have arisen from particles heterogeneous to the real lava; and which detach themselves from it, rising to the surface under a variety of forms proportioned to the spaces of time taken up in cooling. These crusts are formed of different kinds of scoriae and dirty lava, mixed with sand or ashes. At the same place are found also great numbers of small pieces like those of ice heaped upon one another after having floated for some time on a river. Beneath these the pure lava is met with, and which has evidently been in a state of perfect fusion. This is extremely dense; and by looking narrowly into its chinks, the composition of the whole appears to be merely homogeneous. "It is curious (says he) to observe, so near one species of lava which is very pure, another which has likewise

arrived at the same place in a fluid state, and has there undergone so great a change as scarce to retain an appearance of its original state. It is, however, like iron drops, in grains of unequal sizes. We find it also at various distances, such as one, two, or more hundred fathoms. It is sometimes found in large pieces like tables, covered over with sharp points, some longer and others shorter. All these pieces are quite detached from one another, as if they had been brought thither and scattered from a tumbril. The matter of which the crust of the lava is formed, seems to have issued from it in the same manner in which froth rises upon solution of soap in water. It appears afterwards to have swelled, burst, and assumed its present form, presenting to the view various spaces filled with small loose stones. A great number of new lavas were likewise observed, all of them putting forth various kinds of efflorescences in great quantity.

The hardness, density, and solidity, of lavas, no doubt proceed from the degree of heat to which they have been exposed, and which seems to be greater or less according to their quantity. Hence the Icelandic volcanoes, which pour forth the greatest quantities of lava, produce it also in the greatest degree of liquefaction, and Dr Van Troil observes, that what he saw must have been liquefied to an extreme degree.

The composition of the lavas of different volcanoes, and even of different parts of those of the same volcano, is extremely different. Sir William Hamilton is of opinion that this difference in composition contributes not a little to the facility or difficulty with which they afterwards receive earth capable of vegetation. "Some (says he) have been in a more perfect state of vitrification than others, and are consequently less liable to the impressions of time. I have often observed on Mount Vesuvius, when I have been close to a mouth from whence the lava was disgorging itself, that the quality of it varied greatly from time to time. I have seen it as fluid and coherent as glass when in fusion; and I have seen it farinaceous, the particles separating as they forced their way out, just like meal coming from under the grindstones. A stream of lava of this sort being less compact, and containing more earthy particles, would certainly be much sooner fit for vegetation than one composed of the more perfect vitrified matter." Mr Bergman, who has accurately analysed some Icelandic lavas, informs us, that one kind is very coarse, heavy, and hard, full of bladders, almost black, intermixed with white grains resembling quartz, which in some places have a figure not very unlike a square. This black matter is not attracted by the magnet; but if a piece of it is held against a compass, the needle visibly moves. When tried in the crucible, it yields from ten to twelve pounds of iron in every hundred weight. It does not dissolve in the least with sal sodæ, and very difficultly with borax, and scarce at all with urinous salt. It seems to contain a great deal of clay in its composition, which may be extracted by all acid solvents. This last he is likewise, from experiments, assured is the case with the lava of Solfaterra in Italy.

The white lava, which possesses more or less of those transparent grains or rays with which lavas are generally chequered, does not seem to be of the nature of quartz, as it cannot be attacked by sal sodæ; it is

Lava.

5
Observations on the different compositions of lavas by Sir W. Hamilton.

6
By Mr Bergman.

Lava. however, soluble with some difficulty by borax and fusible urinous salt, or microcosmic acid. These effects are perfectly similar to those produced upon the diamond, ruby, sapphire, topaz, and hyacinth. The chrysolite, garnet, tourmalin, and shirl, can neither be dissolved by sal sodæ, though they are somewhat attacked by it when reduced to a fine powder; and upon the two last mentioned ones it produces a slight effervescence; on which account, says Mr Bergman, it is possible that the precious stones found upon Mount Vesuvius, which are sold at Naples, are nearer related to the real precious stones than is generally imagined. He found no such grains in a finer kind of lava, quite porous within, and entirely burnt out, and considerably lighter than the former ones.

The Iceland agate is of a black or blackish-brown colour, a little transparent at the thin edges like glass, and gives fire with steel. It cannot easily be melted by itself; but becomes white, and flies in pieces. It can hardly be dissolved in the fire by fusible urinous salt; but it succeeds a little better with borax, though with some difficulty. With sal sodæ it dissolves very little; though in the first moments some ebullition is perceived, and the whole mass is afterwards reduced to powder. Hence Mr Bergman concludes, that this agate hath been produced by an excessive fire out of the black lava formerly mentioned.

In the Iceland pumice-stone, quartz and crystals are often found, particularly in the black and reddish-brown kind. The stones thrown out of the volcano, whether grey, or burnt brown, seemed to consist of a hardened clay, mixed with a siliceous earth. They were sprinkled with rays and grains resembling quartz, and some few flakes of mica. They fused with great difficulty in the fire; with sal sodæ they showed some effervescence at first, but which ceased in a short time. The parts resembling quartz produced no motion at all; from whence Mr Bergman concludes, that the black lava already mentioned proceeds principally from this mass. Several other stones which were sent him from Iceland, Mr Bergman supposed to have no connection with the eruptions, but to have been produced in some other way.

7
By Mr
Ferber.

In Mr Ferber's travels through Italy, we are informed, that he has seen a species of lava so exactly resembling blue iron slags, that it was not to be distinguished from them but with great difficulty. The same author tells us likewise, that "the Vicentine and Veronese lavas and volcanic ashes contain inclosed several sorts of fire-striking and flint-horn stones, of a red, black, white, green, and variegated colour, such as jaspers and agates; that hyacinths, chrysolites, and *pietre obsidiane*, described by Mr Arduini in his *Giornale d'Italia*, are found at Leonedo; and that chalcedony or opal pebbles, and noduli with inclosed water-drops, (*chalcedonii opali enhydri*), are dug out of the volcanic cineritious hills near Vicenza.

8
M. Dolomieu's opinion.

M. Dolomieu considers the chemical analysis of lava as but of little account. When subjected to the force of fire a second time, they are all of them reducible to the same kind of glass; from which it has been concluded, that all volcanic products have been formed of the same kind of materials, and that the subterraneous fire has always acted on and variously modified the same kind of stone. But an analysis by fire,

he justly observes, is of all others the most fallacious. The substances are all fusible, and we have no proper methods of measuring the intensity of our fire; so that the same substance which to-day may come out of our furnaces untouched, may to-morrow be found completely altered, even though the fire employed should not appear to us to be any more violent than the former. Analyses by different menstrua have not been more successful. Mr Bergman has indeed analysed some lavas with acids, and gives with astonishing precision the following result, viz. that an hundred parts of lava contain 49 of siliceous earth, 35 of argillaceous earth, four of calcareous earth, and 12 of iron. These experiments, however, our author observes, give us no information with regard to lavas in general. They only show the composition of the particular specimens that he tried; and even after the descriptions that he has given, we are a good deal at a loss to discover the species of lava which he subjected to analysis. "It would be as ridiculous (says M. Dolomieu) to apply this analysis to every volcanic product, as it would be to believe that the component parts of a fissile rock were the same with those of every rock composed of laminæ or thin strata." For these reasons he is of opinion, that, in order to understand the nature of lavas, we should consider not only that of volcanoes themselves, but of the bases on which they rest. Had this been done, we would have found that the volcanic fires generally exist in beds of argillaceous schistus and horn stone; frequently in a species of porphyry, the gluten of which is intermediate between twixt horn-stone and petrosilex; containing a large quantity of schorl, feldt-spar, and greenish quartz or chrysolite, in little rounded nodules. These substances, he tells us, would have been found in those mountains which are called primitive, and in strata buried under beds of calcareous stone; and, among other things, would have convinced us, that the fluidity of lavas does not make them lose the distinctive characters of their bases. In the mountains called *Primitive*, those rocks which are assigned as the bases of the more common lavas are found intermixed with micaceous ones, with gneiss, granite, &c. and they generally rest on masses of granite. Hence lavas must consist of all these matters, and the fire must act upon them all whenever it meets with them. Our author has constantly observed, that volcanoes situated at the greatest distance from the centre of the chain, or group of mountains on which they are established, produce lavas of a more homogeneous composition, and less varied, and which contain most iron and argillaceous earth. Those, on the contrary, placed nearer the centre, are more diversified in their products; containing substances of an infinite variety of different kinds. The seat of the fire, however, he observes, does not long continue among the granites, the inflammation being either extinguished, or returning to the centre of the schistus rocks in its neighbourhood.

From this knowledge of the materials of which lavas are composed, we acquire also a considerable knowledge of the matters that are found in greatest quantity in the bowels of the earth. The excavations made by mines, &c. on the surface of the earth, are mere scratches in comparison of the depths of volcanic fires; and as he considers the mountains themselves as the

Lava.

9
Bergman's
analysis of
lava.

10
Of the seat
of volcanic
fires.

11
Materials
abundant in
the earth at
great
depths
shown by
volcanic
fires.

Lava.

productions of those fires, it thence follows, that by attentively examining the materials of which they are composed, we may thence determine what kind of substances are most common at these great depths in the earth.

Thus our author thinks it probable, that schorls and porphyries, though rare on the surface, are very common in the internal parts of the earth. As an instance of the truth of his observations, our author informs us, that he was convinced, from no other circumstance but merely inspecting the lavas of Mount Etna, that, in some parts of the island of Sicily, there existed granites, porphyries, with schistus and argillaceous horn-stones. In this opinion he persisted, notwithstanding the generally opposite sentiments of the inhabitants themselves. He searched in vain three-fourths of the island; and at last found that all the mountains, forming the point of Sicily, called *Pelorus*, contain rocks of the kind above mentioned. He then saw that the base of these mountains was produced under Mount Etna on one side, and under the Lipari islands on the other. "We must, therefore, (says he) believe, that these mountains have furnished the materials on which the volcanoes have, for thousands of years, exerted their power."

By travelling among those elevations called the *Neptunian Mountains*, or *Mons Pelorus*, he was enabled to discover the reason why the products of Etna and the Lipari islands differ from one another. This, he says, is the unequal distribution of the granite and schistus rocks among them. The islands rest almost immediately on the granite, or are separated from it by a very thin stratum of argillaceous rock which contains porphyry; but the Sicilian volcano is situated on the prolongation of the schistous rock, which it must pierce before it reaches the granite; and accordingly very little of its lava seems to have granite for its basis. If the seat of the fire was still more distant from the centre of the mountains, their lavas would be more homogeneous; because the schist, which succeeds to the horn-stone, is less various, and hardly includes any bodies foreign to its own substance. Thus the lavas, in the extinguished volcanoes of the *Val di Noto*, which lie 15 leagues to the south-east of Etna, contain neither granite nor porphyry; but have for their bases simple rocks, with particles of chrysolite and some schorls.

To the granites which extend to Metazzo, opposite to Lipari, he ascribes the formation of pumice; as they contain an immense quantity of scaly and micaceous rocks, black and white, with fossil granites or *gneiss*, the basis of which is a very fusible feldt-spar; and these he supposes to be the proper materials of the pumice, having found pieces of them almost untouched in pumice-stones. There are beds of almost pure feldt-spar; to the semivitrification of which he ascribes an opaque enamel like lava mentioned in other parts of his works. Few porphyries, however, he acknowledges, are to be met with among the Neptunian mountains, though these stones abound in the lavas of Etna. "They are not distant (says he) from the granites; and those I have found have neither the hardness nor perfection of those pieces which I gathered in the gullies, and which had been apparently washed out of the anterior parts of the mountain by water.

Lava.

But though the porphyries I saw here bear no proportion to those in the products of Etna, I was sufficiently convinced of their existence, and their analogy with those of volcanoes, by discovering that the centre of these mountains contains a great number of them. Porphyries, in general, are very rare on the surface of the earth. Nature generally conceals them from us by burying them under calcareous strata, or by inclosing them in schistus rocks with which they are almost always mixed: but we are indebted to the labour of volcanoes for informing us that they are among the most common substances in the bowels of the earth; and they are never so much disguised by the subterranean fire as to be mistaken in the lavas of which they form the basis."

In Cronstedt's Mineralogy we find all the volcanic products classed under the general name of *Slags*; of which he enumerates the following species.

1. *The Achates Islandicus Niger*; or Iceland Agate. It is black, solid, and of a glassy texture; but in thin pieces: it is greenish, and semitransparent, like bottle-glass which contains much iron. It is found in Iceland and in the island of Ascension. The jewellers employ it as an agate, though it is too soft to resist the wear. "The most remarkable thing concerning this (says he) is, that such large solid masses are found of it, that there is no possibility of producing the like in any glass-house. In Magellan's notes on this subject, we find the Iceland agate classed among the transparent basaltes. To the same class belong the *Lapis Obsidianus* of Pliny, and the *Lapis Gallinaceus* of Peru, which by its beautiful blackness approaches to the colour of a large black-bird of the crow kind, in that country called the *Gallinago*."

2. *Lapis molaris Rhenanus*, Rhenish Millstone, is blackish-grey, porous, and perfectly resembling a sort of slag produced by Mount Vesuvius.

3. *Pumex*, the pumice-stone. See PUMEX.

4. The Pearl-Slag is compounded of white and greenish glass particles, which seem to have been conglutinated while yet soft or in fusion. It is found in the island of Ascension.

5. Slag-sand, or ashes, thrown out by volcanoes in larger or smaller grains. "This (says Cronstedt) may perhaps be the principle of the Terra Puzzolana, because such an earth is said at this time to cover the ruins of Herculaneum near Naples, which was destroyed by Vesuvius." In the notes, we are informed, that if the ashes of a volcano be plentifully moistened, they produce that kind of *tufa* or *tophi*, *traas*, and *pori*, all of which are nearly of the same kind. Great heaps of *tufa* or *tophi* are found in Italy, forming various hills, and covering large tracts of land; from whence it is cut, and carried, for making the walls, vaults, and upper ceilings of houses. It is a very soft kind of stone, extremely advantageous for these purposes, on account of its little weight, and being easily cut into any form. The inhabitants of Umbria and other parts of Italy dig with very little labour various subterranean excavations for the keeping of wines and provisions of different kinds.

Mr Kirwan is of opinion, that the lavas ought to be distinguished from the other volcanic productions. All lavas, according to him, are magnetic, give fire with steel, are generally of a granular texture, and fusible

per

Lava. *per se.* They may be reduced to three varieties, viz. the Cellular, the Compact, and the Vitreous. The cellular appear to have undergone only the first degree of fusion, being just mollified and heated sufficiently to expel the fixed air contained in the argillaceous particles. Hence they abound in small cavities arising from the expansion of that air after it had recovered its elastic state; and thus they are often so light as to float upon water, and have been mistaken for pumice-stones. They are of black, grey, brown, or reddish colours; and their cavities are even filled with crystallizations. Of this kind is Cronstedt's second species, the millstone of the Rhine. These contain from 45 to 50 *per cent.* of siliceous earth; from 15 to 20 of iron; four or five of pure calcareous earth; the remainder being argillaceous.

The compact lavas have undergone a more perfect degree of fusion; though even these are not destitute of cavities. They contain finer crystals, or such as are more completely vitrified than the former; they have a black or brown colour: but still their fracture is obscure and not glassy. Their constituent parts are the same with the preceding ones; the usual fluxes attack them with difficulty, and the fusible salt of urine has scarce any power over them.

The vitreous lava has been more completely melted, and forms vitrifications of different colours, generally black or ash-coloured, but rarely blue or greenish. A species of this was analysed by Mr Bergman, as has been already mentioned, and afforded 49 *per cent.* of silica, 35 of argillaceous, 4 of calcareous earth, and 12 of iron. Another specimen from the Lipari islands afforded 69 parts of silica, 20 of argillaceous earth, and 9 of iron. This kind of lava melts by itself with great difficulty. The black agate of Iceland belongs to this species, as does also the harder sort of pitch stone, which gives fire with steel. This stone is of various colours, grey, green, black, red, or brown; has a glassy appearance, being composed of semivitrified substances, and melts easily *per se.* It contains 65 *per cent.* of silica, 16 of argillaceous earth, and four of iron; 14 parts were dissipated in the analysis made by Wiegand, as Mr Kirwan asserts.

The beds of lava are deepest and narrowest near the crater, and broader and shallower as they advance, unless some valley intervenes. Pumice-stones lie at a still greater distance: and from these observations, says Mr Kirwan, extinguished volcanoes may be traced.

Cronstedt conjectured that there might be a kind of circulation among the different earths, from the vegetable mould, which he supposed to occupy one extreme, to the *flags* or volcanic productions, which might be reckoned to occupy another, and back again from the *flags* to the vegetable mould. "It is obvious (says he) how the old heaps of *flags* from the iron furnaces decay, and at last produce vegetables, which cannot be ascribed solely to a black mould carried thither by the wind. The same may perhaps happen with the natural *flags* in the open air." Other naturalists have verified this conjecture. All lavas are found to be decomposable by long exposure to the air, sooner or later according to the quantity of iron and calcareous earth they contain, and according as their fusion was more or less complete. Sir William Hamil-

ton has concluded that they gain only one or two feet mould in 1000 years; from which, and Roupéro's calculations, extravagant ideas have been formed of the duration of the world; but all these are found, when properly examined, to be built on a false foundation. See the article EARTH, n° 176, 177.

The quantity of matter thrown out from volcanoes under the name of *lava* is prodigious. After the great eruption of Etna in 1669, Borelli went from Pisa to Sicily to observe the effects of it. The matter thrown out at that time amounted to 93,830,750 cubical paces; so that, had it been extended in length upon the surface of the earth, it would have reached more than four times round the whole earth. All this matter, however, was not lava, but consisted also of sand, stone, gravel, &c. The lava he computed at 6,300,000 paces, which formed a river, according to our author, sometimes two miles broad; but according to others it was six or seven miles broad, and sometimes 20 or 30 yards in depth. Sir William Hamilton informs us, that the lavas of Etna are very commonly 15 or 20 miles in length, six or seven in breadth, and 50 feet deep. The most considerable is scarce less than 30 miles long and 15 broad. The most considerable lavas of Vesuvius do not exceed seven miles in length. The same author, however, tells us, that the lava which issued from Vesuvius in 1767, was six miles long, two in breadth, and in most places 60 or 70 feet deep. In one place it had run along a hollow-way made by currents of rain not less than 200 feet deep and 100 wide; and this vast hollow it had in one place filled up. He says, he could not have believed that so great a quantity of matter could have been thrown out in such a short time, if he had not examined the whole course of it himself. Even this quantity, however, great as it is, appears very trifling in comparison of that thrown out in Iceland in the year 1783, which covered a space of ground 90 miles in length and 42 in breadth, to the depth of more than 100 feet. Dr Van Troil, in his Letters on Iceland, tells us, that he and his companions travelled over a tract of lava upwards of 300 miles in length: and in 1728, we are told that an eruption of lava took place, which continued for two years to run into a great lake, which it almost filled up.

As the lavas are thrown out from the volcanoes in the highest degree of ignition, it may easily be supposed that such vast bodies will retain their heat for a long time. It would indeed be well worth observing, what length of time is required to cool a lava perfectly; as from thence we might in some measure judge how far those philosophers are in the right, who argue concerning the length of time required to cool an ignited globe of the size of our earth or larger. Sir William Hamilton tells us, that in the month of April 1771, he thrust sticks into some of the crevices of the lava which had issued from Vesuvius in October 1767, and they immediately took fire. On Mount Etna, in 1769, he observed the lava that had been disgorged three years before to smoke in many parts. No particular observation, however, hath been made in what proportion the heat of lavas is gradually lost.

Sir

Lava.

12
Vast quantities of lava thrown out.

13
Require a long time to cool.

Lava,
Lavandula.

14
Cold and
noxious va-
pours pro-
duced by
old lavas.

Sir William Hamilton informs us of a curious fact relating to a lava in the island called *Lacco*. Here is a cavern shut up with a door; and this cavern is made use of to cool liquors and fruit, which it does in a short time as effectually as ice. Before the door was opened, he felt the cold on his legs very sensibly; but when it was opened, the cold rushed out so as to give him pain; and within the grotto it was intolerable. He was not sensible of wind attending this cold; tho' upon Mount Etna and Vesuvius, where there are caverns of this kind, the cold is evidently occasioned by a subterraneous wind: the natives call such places *ventaroli*. From old lavas there also frequently happens an eruption of noxious vapours called *mosfetes*. These likewise break out from wells and subterraneous places in the neighbourhood of a volcano before an eruption. Our author tells us, that the vapour affects the nostrils, throat, and stomach, just as the spirit of hartshorn or any strong volatile salt; and would soon prove fatal if you did not immediately withdraw from it. These *mosfetes*, he says, are at all times to be met with under the ancient lavas of Vesuvius, particularly the great eruption of 1631.

15
Uses of la-
vas.

Sir William Hamilton informs us, that the lavas of Etna and Vesuvius are much the same, but those of Etna rather blacker and more porous than those of Vesuvius. Some kinds of lava take a fine polish, and are frequently manufactured into boxes, tables, &c. In Naples, the inhabitants commonly make use of it for paving the streets, and even the subterraneous cities of Pompeii and Herculaneum have been paved with the same substance. A fine large cubic piece of lava is preserved in the hall of the British Museum.

LAVANDULA, LAVENDER: A genus of the angiospermia order, belonging to the didynamia class of plants; and in the natural method ranking under the 42d order, *Verticillatae*. The calyx is ovate, and a little dentated, supported by a bractea or floral leaf; the corolla is resupinated; the stamina within the tube.

Species. 1. The spica, or lavender spike, hath a short shrubby stalk, rising two or three feet high; small spear-shaped entire leaves; and from the ends of the branches, numerous, long, erect, naked spikes of small ringent flowers, of different colours in the varieties. The varieties of this are common narrow-leaved lavender, with blue flowers, and with white flowers; broad-leaved lavender; dwarf lavender: all of them flowering in July. This species is the common lavender; but the narrow-leaved variety, with blue flowers, is the sort commonly cultivated for its flowers for medicine, &c. The *stoechas*, or French lavender, hath a shrubby very branchy stalk, rising two or three feet high; very narrow, spear-shaped, pointed, hoary leaves, opposite; and all the branches terminated by short bushy spikes of purple flowers in June and July; succeeded by seeds in August. There is a variety with white flowers. 3. The dentata, or dentate-leaved *stoechas*, hath a woody stalk, branching on every side three or four feet high; leaves deeply indented in a pinnated manner; and the branches terminated by scaly four-cornered spikes of flowers, appearing most part of summer.

Culture. All the sorts are propagated plentifully by slips or cuttings of their young shoots in spring. In March or April, take off a quantity of slips or cut-

tings, from three or four to six inches long; strip off the under leaves; then plant them in a shady border, four inches asunder; give a good watering, repeat it occasionally in dry weather, and the plants will be well rooted in summer, and each become a good plant fit to be transplanted into any place early in autumn, that is September or October; removing them, if possible, with balls of earth; and if intended to plant them for use, set them in rows two or three feet asunder, and two feet distance in each row: if any are designed for the shrubbery, they should be stationed singly at good distances near the front. Those of the third sort being tender, should be potted to move to shelter in winter. The *lavandula stoechas* is also often raised from seed, sown in March or April, in a bed of light earth.

Uses. The two first species are proper both for the kitchen-garden, for medicinal and other family-uses; and to plant in the pleasure-ground to adorn the front of small shrubbery compartments, where they will increase the variety very agreeably; and are finely-scented aromatics, both when growing, and their flowers when gathered, especially those of the first species, which are in great esteem for putting among cloaths, and for distilling and other economical uses. The flowers of the first sort are gathered for use in July, which being the time of their perfection, cut off the spikes close in a dry day, and tie them in small bunches for use. These and the summits are in a very eminent degree cephalic and nervine. They are given in palsies, vertigos, lethargies, tremors, and suppression of the menstrual evacuation. The compound spirit distilled from them is famous in these and many other like cases. The distilled oil is particularly celebrated for destroying the *pediculi inguinales*, and other cutaneous insects. If soft spongy paper, dipt in this oil, either alone or mixed with oil of almonds, be applied at night to the parts infected, the insects will certainly, says Geoffroy, be all found dead in the morning.

LAVATERA, in botany: A genus of the polyandria order, belonging to the polyadelphia class of plants; and in the natural method ranking under the 37th order, *Columniferae*. The exterior calyx is double and tritid; the arilli or seed-coats are very many and monospermous. There are several species, most of them herbaceous flowery annuals, or shrubby perennials, growing erect from two or three to eight or ten feet high, garnished with large roundish, heart-shaped, and angular leaves, and quinquepetalous flowers of the mallow kind. They are easily propagated by seed in the open ground in the spring; and thrive best when sown where they are designed to remain. The *lavatera* tribe affect a warm sandy situation and soil, in which they will sometimes continue to exhibit their beauties for many years; but in general they are short-lived, continuing only two or three years: this renders them peculiarly eligible to be scattered plentifully in a newly made shrubbery; they will add warmth to young plants, and will die away themselves before the spaces they occupy will be required by the surrounding shrubs.

LAVATORY, or LAVADERO, a name given to certain places in Chili and Peru, where gold is got out of earth by washing.

M. Frezier gives us the following description of the *lavatories*

Lavatera,
Lavatory.

Lubach,
Laud.

lavatories of Chili:—They dig deep into the earth, in such places as they have reason to expect gold in; and, in order to facilitate this digging, turn a stream of water upon the spot, loosening the earth as much as possible all the time, that the current may have the greater effect, and tear up the earth more strongly. When they are got to the earth they want, they turn off the stream, and dig dry.

The earth that they now get, is carried on mules, and discharged into a basin, made somewhat in the manner of a smith's bellows; into which a little rivulet of water runs with a great deal of rapidity, dissolving the parts of the earth, and carrying every thing away with it, excepting the particles of gold, which, by their great weight, precipitate to the bottom of the basin, and mix with fine black sand, where they are almost as much hidden as they were before in the earth.

Sometimes they find very considerable pieces in *lavatories*, particularly pieces of 24 ounces each.—There are several *lavatories*, where they find pepitas, or pieces of virgin gold, of a prodigious size. Among others, they tell of one that weighed 512 ounces, bought by the count de la Moncloa, viceroy of Peru.

Nine or ten leagues to the east of Coquimbo, are the *lavatories* of *Andacoll*, the gold whereof is 23 carats fine.—Their works here always turn to great profit, excepting when the water fails them.—The natives maintain that the earth is creative, that is, it produces gold continually; because, after having been washed 60 or 80 years, they find it impregnated afresh, and draw almost as much out of it as at first.

LUBACH, a handsome and strong town of Germany, in the circle of Austria, and in Carniola, with a bishop's see, a castle, and very handsome houses. It is seated on a river of the same name, wherein are the largest craw-fish in Europe. E. Long. 14. 45. N. Lat. 46. 20.

LAUD (William), archbishop of Canterbury in the 17th century, was born at Reading in 1573, and educated in St John's college, Oxford, of which he was afterwards a fellow and grammar-reader. In 1610, he went into orders. In 1611, he was elected president of St John's college; but his election being disputed, it was confirmed by his majesty. The same year he was sworn the king's chaplain. In 1621, he was nominated bishop of St David's. In 1628, he was translated to the bishopric of London. In 1630, he was elected chancellor of the university of Oxford. In 1633, he attended the king into Scotland, and was sworn a privy-counsellor for that kingdom. During his stay in Scotland, he formed the resolution of bringing that church to an exact conformity with the church of England. In the same year, he succeeded archbishop Abbot in the see of Canterbury; and soon after came out his majesty's declaration about lawful sports on Sundays, which the archbishop was charged with having revived and enlarged, and that with the vexatious prosecutions of such clergymen as refused to read it in their churches. In 1634-5, the archbishop was put into the great committee of trade and the king's revenue; on the 4th of March following, he was appointed one of the commissioners of the trea-

sury; and on the 6th of March 1635-6, he received the staff of lord high-treasurer of England. In order to prevent the printing and publishing what he thought improper books, he procured a decree to be passed in the star-chamber, on the 11th of July 1637, whereby it was enjoined that the master-printers should be reduced to a certain number, and that none of them should print any books till they were licensed either by the archbishop or the bishop of London, or some of their chaplains, or by the chancellors or vice chancellors of the two universities. A new parliament being summoned, met on the 13th of April 1640; and the convocation the day following: but the commons launching out into complaints against the archbishop, and insisting upon a redress of grievances before they granted any supply, the parliament was dissolved on the 7th of May. The convocation, however, continued sitting; and made 17 canons, which were supposed to be formed under the immediate direction of the archbishop. In the beginning of the long parliament he was attacked on account of those canons: and they being condemned by the house of commons on the 16th of December 1640, "as containing many things contrary to the king's prerogative, to the fundamental laws and statutes of this realm, to the rights of parliament, to the property and liberty of the subject, and tending to sedition, and of dangerous consequence;" he was, on the 18th of December, accused by the commons of high treason, and sent to the Tower. Being tried before the house of lords, for endeavouring to subvert the laws, and to overthrow the Protestant religion, he was found guilty, and beheaded on Tower-hill on January 10th following, in the 72d year of his age. This learned prelate, notwithstanding his being charged with a design to bring in Popery, wrote an answer to Dr Fisher, which is esteemed one of the best pieces that has been printed against that religion. He was temperate in his diet, and regular in his private life: but his fondness for introducing new ceremonies, in which he showed a hot and indiscreet zeal, his encouraging of sports on Sundays, his illegal and cruel severity in the star-chamber and high-commission courts, and the fury with which he persecuted the dissenters, and all who presumed to contradict his sentiments, exposed him to popular hatred. Besides his Answer to Fisher, he published several Sermons, and other works.

LAUDANUM. See OPIUM.

LAUDATIO, in a legal sense, was anciently the testimony delivered in court of the accused person's good behaviour and integrity of life. It resembled the custom, which prevails in our trials, of calling persons to speak to the character of the prisoner. The least number of the *laudatores* amongst the Romans was ten.

LAUDER (William), a native of Scotland, was educated at the university of Edinburgh, where he finished his studies with great reputation, and acquired a considerable knowledge of the Latin tongue. In May 22. 1734, he received a testimonial from the heads of the university, certifying that he was a fit person to teach humanity in any school or college whatever. In 1739 he published at Edinburgh an edition of Johnston's Psalms. In 1742, he was recommended by Mr Patrick Cuming and Mr Colin Mac-

laurin,

Laudanum
Lauder.

Lauder
||
Laudohn.

laurin, professors of church-history and mathematics, to the mastership of the grammar-school at Dundee, then vacant. Whether he succeeded in his application or not, is uncertain: but a few years afterwards we find him in London, contriving to ruin the reputation of Milton; an attempt which ended in the destruction of his own. His reason for the attack probably sprung from the virulence of a violent party spirit, which triumphed over every principle of honour and honesty. He began first to retail part of his design in *The Gentleman's Magazine*, 1747; and finding that his forgeries were not detected, was encouraged in 1751 to collect them, with additions, into a volume, intitled, "*An Essay on Milton's Use and Imitation of the Moderns in his Paradise Lost*," 8vo. The fidelity of his quotations had been doubted by several people; and the falsehood of them was soon after demonstrated by Dr Douglas, in a pamphlet intitled, "*Milton vindicated from the Charge of Plagiarism* brought against him by Lauder, and Lauder himself convicted of several Forgeries and gross Impositions on the Public: In a Letter humbly addressed to the Right Honourable the Earl of Bath, 1751," 8vo. The appearance of this Detection overwhelmed Lauder with confusion. He subscribed a confession, dictated by a learned friend, wherein he ingenuously acknowledged his offence, which he professed to have been occasioned by the injury he had received from the disappointment of his expectations of profit from the publication of Johnston's Psalms. This misfortune he ascribed to a couplet in Mr Pope's *Dunciad*, book iv. ver. 3. and from thence originated his rancour against Milton. He afterwards imputed his conduct to other motives; abused the few friends who continued to countenance him; and, finding that his character was not to be retrieved, quitted the kingdom, and went to Barbadoes, where he some time taught a school. His behaviour there was mean and despicable; and he passed the remainder of his life in universal contempt. "He died (says Mr Nichols) some time about the year 1771, as my friend Mr Reed was informed by the gentleman who read the funeral service over him."

LAUDICENI, amongst the Romans, applauders, who for reward entered the rehearsal-rooms, attended the repetition of plays, and were in waiting when orations were pronounced, in order to raise or increase the acclamation and applause.

LAUDOHN (Field-marshal), a celebrated general in the imperial service, born in 1716, was a native of Livonia, and descended from a Scottish family. He made his first campaigns under Marshal Munich, in the war of 1738, between the Russians and Turks; and was at the taking of Oczakow, Choczim, and Stawutzchane, where the Turks were entirely defeated. Frederick the Great refused, in 1741, to take young Laudohn into his service, saying he did not like his countenance; though this monarch, who was considered as the greatest general of his age, afterwards said, that he often admired the positions of other generals, but that he had ever dreaded the battles of Laudohn. In 1756, when but just entered into the service of the house of Austria, with the rank of lieutenant-colonel, he made such a rapid progress, that within less than a year he was a general of artillery, and within three years commander in chief of the whole army. He

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rescued Olmutz, when besieged by the Prussians; beat the king himself at Frankfort on the Oder; at Zorn-dorf, took General Fouquet prisoner; carried Glatz and Schweidnitz by assault; and stopped the progress of Frederick in a war which might have proved fatal to the house of Austria. In 1778, when elevated to the rank of marshal, at the head of 60,000 men he hindered Henry, brother to the king of Prussia, from joining his army to that of the king. At Dubicza, Novi, Gradisca, and Belgrade, in the late war between the Emperor and the Turks, he had but to present himself before the place, and say with Cæsar, *Veni, vidi, vici*. But at his head-quarters in Moravia, he was seized with a fever, in consequence of an operation he underwent for an obstruction in the urethra. His impatience under the medical applications, the impetuous ardour of his character, and the knowledge, above all, of his importance in the war, contributed to irritate his mind, and promote the violence of the fever. He resisted the application of cataplasms, before and after the incisions were made, with a fatal obstinacy which raised the inflammation to such a height, that he expired under the accession of the fever on the 14th of July 1790, in the 74th year of his age.

LAUDS, LAUDES, the second part of the ordinary office of the breviary, said after matins; though, heretofore, it ended the office of the night.

The laudes consist principally of psalms, hymns, &c. whence they took their name, from *laus, laudis*, "praise."

LAVENHAM, or LANHAM, 61 miles from London, is a pleasant and pretty large town of Suffolk, on a branch of the river Bret, from whence it rises gradually to the top of a hill, where are its church, which is a very handsome Gothic structure, and in which are several ancient monuments; and a spacious marketplace, encompassed with nine streets or divisions, in a very healthy free air. It had formerly a very considerable trade in blue cloth; and had three guilds or companies, with each their hall. It has still a considerable manufactory of serges, shalloons, says, stuffs, and spinning fine yarn for London; and many hundred loads of wool are delivered in a year from its wool-hall. It is governed by 6 capital burghesses, who are for life, and choose the inferior officers. The church and its steeple, which is 137 feet high, are reckoned the finest in the county. Its tenor bell, though not much more than a ton, has as deep a note as a bell of twice that weight. Here is a free-school and a bride-well, part of which is a workhouse where the poor children, &c. of the parish are employed in spinning hemp, flax, and yarn; besides which, here are other considerable charities. The tenants of the manor and the other inhabitants were always exempted from serving at any court held for its hamlet. They have that tenure of land here which is called *Borough English*. Its markets are on Tuesday, and on Thursday for wool. Its fairs are on Shrove-Tuesday, and October 10.

LAVENDER. See LAVANDULA.

LAVER, in scripture history, a sacred utensil placed in the court of the Jewish tabernacle, consisting of a basin, whence they drew water by cocks, for washing the hands and feet of the officiating priests, and also the entrails and legs of the victims.

LAVERNA,

Lands
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Laver.

Laverna
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Laughter.

LAVERNA, in antiquity, the goddess of thieves and cheats among the Romans, who honoured her with public worship, because she was supposed to favour those who wished that their designs might not be discovered. Varro says, that she had an altar near one of the gates of Rome; hence called *porta lavernalis*.

LAUGERIA, in botany: A genus of the monogynia order, belonging to the pentandria class of plants; and in the natural method ranking among those of which the order is doubtful. The corolla is quinquefid; the fruit is a plum with a quinquelocular kernel.

LAUGHTER, an affection peculiar to mankind, occasioned by something that tickles the fancy.

In laughter, the eye-brows are raised about the middle, and drawn down next the nose; the eyes are almost shut; the mouth opens and shows the teeth, the corners of the mouth being drawn back and raised up; the cheeks seem puffed up, and almost hide the eyes; the face is usually red, the nostrils are open; and the eyes wet.

Authors attribute laughter to the fifth pair of nerves, which sending branches to the eye, ear, lips, tongue, palate, and muscles of the cheek, parts of the mouth, præcordia, &c. there hence arises a sympathy, or consent, between all these parts; so that when one of them is acted upon, the others are proportionably affected. Hence a savoury thing seen, or smelt, affects the glands, and parts of the mouth; a thing seen, or heard, that is shameful, affects the cheeks with blushes; on the contrary, if it please and tickle the fancy, it affects the præcordia, and muscles of the mouth and face with laughter; if it cause sadness and melancholy, it likewise affects the præcordia, and demonstrates itself by causing the glands of the eyes to emit tears. Dr Willis accounts for the pleasure of kissing from the same cause; the branches of this fifth pair being spread to the lips, the præcordia, and the genital parts; whence arises a sympathy between those parts.

The affection of the mind by which laughter is produced is seemingly so very different from the other passions with which we are endowed, that it hath engaged the attention of very eminent persons to find it out.—1. Aristotle, in the fifth chapter of his Poetics, observes of comedy, that “it imitates those vices or meannesses only which partake of the ridiculous:—now the ridiculous (says he) consists of some fault or turpitude not attended with great pain, and not destructive.” 2. “The passion of laughter (says Mr Hobbes) is nothing else but sudden glory arising from some sudden conception of some eminency in ourselves, by comparison with the infirmity of others, or with our own formerly. For men (continues he) laugh at the follies of themselves past, when they come suddenly to remembrance, except when we bring with them any sudden dishonour.” 3. Akenfide, in the third book of his excellent poem, treats of ridicule at considerable length. He gives a detail of ridiculous characters; ignorant pretenders to learning, boastful soldiers, and lying travellers, hypocritical churchmen, conceited politicians, old women that talk of their charms and virtue, ragged philosophers who rail at riches, virtuosi intent upon trifles, romantic lovers, wits wantonly satirical, fops that out of vanity appear to be diseased and profligate, dastards who are ashamed or afraid without reason, and fools who are

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ignorant of what they ought to know. Having finished the detail of characters he makes some general remarks on the cause of ridicule; and explains himself more fully in a prose definition illustrated by examples. The definition, or rather description, is in these words. “That which makes objects ridiculous, is some ground of admiration or esteem connected with other more general circumstances comparatively worthless or deformed: or it is some circumstance of turpitude or deformity connected with what is in general excellent or beautiful; the inconsistent properties existing either in the objects themselves, or in the apprehension of the person to whom they relate; belonging always to the same order or class of being; implying sentiment and design, and exciting no acute or vehement commotion of the heart.”—4. Hutcheson has given another account of the ludicrous quality, and seems to think that it is the contrast or opposition of dignity and meanness which occasions laughter.

All these opinions are refuted by Dr Beattie in his Essay on Laughter and Ludicrous Composition, where he has treated the subject in a masterly manner. “To provoke laughter (says he), is not essential either to wit or humour. For though that unexpected discovery of resemblance between ideas supposed dissimilar, which is called *wit*—and that comic exhibition of singular characters, sentiments, and imagery, which is denominated *humour*,—do frequently raise laughter, they do not raise it always. Addison’s poem to Sir Godfrey Kneller, in which the British kings are likened to heathen gods, is exquisitely witty, and yet not laughable. Pope’s Essay on Man abounds in serious wit; and examples of serious humour are not uncommon in Fielding’s History of Parson Adams, and in Addison’s account of Sir Roger de Coverley. Wit, when the subject is grave, and the allusions sublime, raises admiration instead of laughter: and if the comic singularities of a good man appear in circumstances of real distress, the imitation of these singularities in the epic or dramatic comedy will form a species of humour, which, if it should force a smile, will draw forth a tear at the same time. An inquiry, therefore, into the distinguishing characters of wit and humour has no necessary connection with the present subject.

“Some authors have treated of ridicule, without marking the distinction between *ridiculous* and *ludicrous* ideas. But I presume the natural order of proceeding in this inquiry, is to begin with ascertaining the nature of what is *purely ludicrous*. Things *ludicrous* and things *ridiculous* have this in common, that both excite laughter; but the former excite pure laughter, the latter excite laughter mixed with disapprobation and contempt. My design is to analyse and explain that quality in things or ideas, which makes them provoke *pure laughter*, and intitles them to the name of *ludicrous* or *laughable*.

“When certain objects, qualities, or ideas, occur to our senses, memory, or imagination, we smile or laugh at them, and expect that other men should do the same. To smile on certain occasions is not less natural, than to weep at the sight of distress, or cry out when we feel pain.

“There are different kinds of laughter. As a boy, passing by night through a church-yard, sings or whistles in order to conceal his fear even from himself;

4 F

so

Laughter.

Laughter. so there are men, who, by forcing a smile, endeavour sometimes to hide from others, and from themselves too perhaps, their malevolence or envy. Such laughter is unnatural. The sound of it offends the ear; the features distorted by it seem horrible to the eye. A mixture of hypocrisy, malice, and cruel joy, thus displayed on the countenance, is one of the most hateful sights in nature, and transforms the "human face divine" into the visage of a fiend. Similar to this is the smile of a wicked person pleasing himself with the hope of accomplishing his evil purposes. Milton gives a striking picture of it in that well-known passage:

He ceas'd; for both seem'd highly pleas'd; and Death
Grinn'd horrible a ghastly smile, to hear
His famine should be fill'd, and blest his maw
Destin'd to that good hour.—

But enough of this. Laughter that makes man a fiend or a monster, I have no inclination to analyse. My inquiries are confined to that species of laughter which is at once natural and innocent.

"Of this there are two sorts. The laughter occasioned by tickling or gladness is different from that which arises on reading the Tale of a Tub. The former may be called *animal-laughter*: the latter (if it were lawful to adopt a new word which has become very common of late) I should term *sentimental*. Smiles admit of similar divisions. Not to mention the scornful, the envious, the malevolent smile, I would only remark, that of the innocent and agreeable smile there are two sorts. The one proceeds from the risible emotion, and has a tendency to break out into laughter. The other is the effect of good-humour, complacency, and tender affection. This last sort of smile renders a countenance amiable in the highest degree. Homer ascribes it to Venus in an epithet (*φιλομειδης*), which Dryden and Pope, after Waller, improperly translate *laughter-loving*; an idea that accords better with the character of a romp or hoyden, than with the goddess of love and beauty.

"Animal-laughter admits of various degrees; from the gentle impulse excited in a child by moderate joy, to that terrifying and even mortal convulsion which has been known to accompany a change of fortune. This passion may, as well as joy and sorrow, be communicated by sympathy; and I know not whether the entertainment we receive from the playful tricks of kittens and other young animals may not in part be resolved into something like a fellow feeling of their vivacity.—Animal and sentimental laughter are frequently blended; but it is easy to distinguish them. The former is often excessive; the latter never, unless heightened by the other. The latter is always pleasing, both in itself and in its cause; the former may be painful in both. But their principal difference is this:—The one always proceeds from a sentiment or emotion excited in the mind, in consequence of certain ideas or objects being presented to it, of which emotion we may be conscious even when we suppress laughter;—the other arises not from any sentiment or perception of ludicrous ideas, but from some bodily feeling, or sudden impulse on what is called the *animal spirits*, proceeding, or seeming to proceed, from the operation of causes purely material. The present inquiry regards that species that is here distinguished by the name of *sentimental laughter*.

"The pleasing emotion, arising from the view of

ludicrous ideas, is known to every one by experience; but, being a simple feeling, admits not of definition. It is to be distinguished from the laughter that generally attends it, as sorrow is to be distinguished from tears; for it is often felt in a high degree by those who are remarkable for gravity of countenance. Swift seldom laughed, notwithstanding his uncommon talents in wit and humour, and the extraordinary delight he seems to have had in surveying the ridiculous side of things. Why this agreeable emotion should be accompanied with laughter as its outward sign, or sorrow express itself by tears, or fear by trembling or paleness, I cannot ultimately explain, otherwise than by saying, that such is the appointment of the Author of nature.—All I mean by this inquiry is, to determine, "What is peculiar to those things which produce laughter;—or rather, which raise in the mind that pleasing sentiment or emotion whereof laughter is the external sign."

"Philosophers have differed in their opinions concerning this matter. In Aristotle's definition quoted above, it is clear that he means to characterise, not laughable qualities in general (as some have thought), but the objects of comic ridicule only; and in this view the definition is just, however it may have been overlooked or despised by comic writers. Crimes and misfortunes are often in modern plays, and were sometimes in the ancient, held up as objects of public merriment; but if poets had that reverence for nature which they ought to have, they would not shock the common sense of mankind by so absurd a representation.—The definition from Aristotle does not, however, suit the general nature of ludicrous ideas; for it will appear by and by, that men laugh at that in which there is neither fault or turpitude of any kind.

"The theory of Mr Hobbes would hardly have deserved notice, if Addison had not spoken of it with approbation in the 47th paper of the Spectator. He justly observes, after quoting the words of Mr Hobbes formerly mentioned, that, "according to this account, when we hear a man laugh excessively, instead of saying that he is very merry, we ought to tell him that he is very proud." It is strange, that the elegant author should be aware of this consequence, and yet admit the theory: for so good a judge of human nature could not be ignorant, that laughter is not considered as a sign of pride; persons of singular gravity being often suspected of that vice, but great laughers seldom or never. When we see a man attentive to the innocent humours of a merry company, and yet maintain a fixed solemnity of countenance, is it natural for us to think that he is the humblest, and the only humble person in the circle?

"Another writer in the Spectator, n^o 249, remarks, in confirmation of this theory, that the *vainest* part of mankind are most addicted to the passion of laughter. Now, how can this be, if the *proudest* part of mankind are also most addicted to it, unless we suppose vanity and pride to be the same thing? But they certainly are different passions. The proud man despises other men, and derives his chief pleasure from the contemplation of his own importance: the vain man stands in need of the applause of others, and cannot be happy without it. Pride is apt to be reserved and sullen; vanity is often affable, and officiously obliging. The proud

Laughter. proud man is so confident of his merit, and thinks it so obvious to all the world, that he will scarce give himself the trouble to inform you of it: the vain man, to raise your admiration, scruples not to tell you, not only the whole truth, but even a great deal more. In the same person these two passions may, no doubt, be united; but some men are too proud to be vain, and some vain men are too conscious of their own weakness to be proud. Be all this, however, as it will, we have not as yet made any discovery of the cause of laughter: in regard to which, I apprehend, that the vain are not more intemperate than other people; and I am sure that the proud are much less so.

"Hutcheson's account of the origin of laughter is equally unsatisfactory. Granting what he says to be true, I would observe, in the first place, what the ingenious author seems to have been aware of, that there may be a mixture of meanness and dignity where there is nothing ludicrous. A city, considered as a collection of low and lofty houses, is no laughable object. Nor was that person either ludicrous or ridiculous, whom Pope so justly characterises,

"The greatest, wisest, meanest, of mankind."

—But, secondly, cases might be mentioned, of laughter arising from a group of ideas or objects, wherein there is no discernible opposition of meanness or dignity. We are told of the dagger of *Hudibras*, that

"It could scrape trenchers, or chip bread,
"Toast cheese or bacon, though it were
"To bait a mouse-trap, 'twou'd not care;
" 'Twou'd make clean shoes, or in the earth
"Set leeks and onions, and so forth."

The humour of the passage cannot arise from the meanness of these offices compared with the dignity of the dagger, nor from any opposition of meanness and dignity in the offices themselves, they being all equally mean; and must therefore be owing to some peculiarity in the description. We laugh, when a droll mimics the solemnity of a grave person; here dignity and meanness are indeed united: but we laugh also (tho' not so heartily perhaps) when he mimics the peculiarities of a fellow as insignificant as himself, and displays no opposition of dignity and meanness. The levities of *Sancho Panca* opposed to the solemnity of his master, and compared with his own schemes of preferment, form an entertaining contrast: but some of the vagaries of that renowned squire are truly laughable even when his preferment and his master are out of the question. Men laugh at puns; the wisest and wittiest of our species have laughed at them; queen *Elisabeth*, *Cicero*, and *Shakespeare*, laughed at them; clowns and children laugh at them; and most men, at one time or other, are inclined to do the same: but in this sort of low wit, is it an opposition of meanness and dignity that entertains us? Is it not rather a mixture of sameness and diversity,—sameness in the sound, and diversity in the signification?

"In the characters mentioned by *Akenside*, the author does not distinguish between what is *laughable* and what is *contemptible*; so that we have no reason to think, that he meant to specify the qualities peculiar to those things which provoke *pure laughter*; and whatever account we may make of his definition, which to those who acquiesce in the foregoing reasonings

may perhaps appear not quite satisfactory, there is in the poem a passage that deserves particular notice, as it seems to contain a more exact account of the ludicrous quality than is to be found in any of the theories abovementioned. This passage we shall soon have occasion to quote."

Our author now goes on to lay down his own theory concerning the origin of laughter, which he supposes to arise from the view of things incongruous united in the same assemblage. "However imperfect (says he) the abovementioned theories may appear, there is none of them destitute of merit; and indeed the most fanciful philosopher seldom frames a theory without consulting nature in some of her more obvious appearances. Laughter very frequently arises from the view of dignity and meanness united in the same object; sometimes, no doubt, from the appearance of assumed inferiority, as well as of small faults and unimportant turpitudes; and sometimes, perhaps, though rarely, from that sort of pride which is described in the passage already quoted from *Hobbes*.

"All these accounts agree in this, that the cause of laughter is something compounded; or something that disposes the mind to form a comparison, by passing from one object or idea to another. That this is in fact the case, cannot be proved *a priori*; but this holds in all the examples hitherto given, and will be found to hold in all that are given hereafter. May it not then be laid down as a principle, That laughter arises from the view of two or more objects or ideas disposing the mind to form a comparison? According to the theory of *Hobbes*, this comparison would be between the ludicrous object and ourselves; according to those writers who misapply *Aristotle's* definition, it would seem to be formed between the ludicrous object and things or persons in general; and if we incline to *Hutcheson's* theory, which is the best of the three, we shall think that there is a comparison of the parts of the ludicrous object, first with one another, and secondly with ideas or things extraneous.

"Further: every appearance that is made up of parts, or that leads the mind of the beholder to form a comparison, is not ludicrous. The body of a man or woman, of a horse, a fish, or a bird, is not ludicrous, though it consists of many parts; and it may be compared to many other things without raising laughter; but the picture described in the beginning of the epistle to the *Piso's*, with a man's head, a horse's neck, feathers of different birds, limbs of different beasts, and the tail of a fish, would have been thought ludicrous 1800 years ago, if we believe *Horace*, and in certain circumstances would no doubt be so at this day. It would seem then, that 'the parts of a laughable assemblage must be in some degree unsuitable and heterogeneous.'

"Moreover: any one of the parts of the *Horatian* monster, a human head, a horse's neck, the tail of a fish, or the plumage of a fowl, is not ludicrous in itself; nor would those several pieces be ludicrous, if attended to in succession, without any view to their union. For to see them disposed on the different shelves of a museum, or even on the same shelf, nobody would laugh, except, perhaps, the thought of uniting them were to occur to his fancy, or the passage of *Horace* to his memory. It seems to follow, that 'the incongruous parts of a laughable idea or object must either

Laughter. be combined so as to form an assemblage, or must be supposed to be so combined."

"May we not then conclude, 'that laughter arises from the view of two or more inconsistent, unsuitable, or incongruous parts or circumstances, considered as united in one complex object or assemblage, or as acquiring a sort of mutual relation from the peculiar manner in which the mind takes notice of them?' The lines from Akenfide formerly referred to, seem to point at the same doctrine:

Where-e'er the pow'r of ridicule displays
Her quaint-eye'd visage, *some incongruous form,*
Some stubborn dissonance of things combin'd,
Strikes on the quick observer.

And to the same purpose, the learned and ingenious Dr Gerard, in his *Essay on Taste*: 'The sense of ridicule is gratified by an inconsistency and dissonance of circumstances in the same object, or in objects nearly related in the main; or by a similitude or a relation unexpected between things on the whole opposite and unlike.'

"And therefore, instead of saying, with Hutcheson, that the cause or object of laughter is an 'opposition of dignity and meanness;' I would say, in more general terms, that it is 'an opposition of suitability or unsuitableness, or of relation and the want of relation, united, or supposed to be united, in the same assemblage.' Thus the offices ascribed to the dagger of Hudibras seem quite heterogeneous; but we discover a bond of connection among them, when we are told that the same weapon could occasionally perform them all. Thus, even in that mimicry which displays no opposition of dignity and meanness, we perceive the actions of one man joined to the features and body of another; that is, a mixture of unsuitableness, or want of relation, arising from the difference of persons, with congruity and similitude, arising from the sameness of the actions. And here let it be observed in general, that the greater number of incongruities that are blended in the same assemblage, the more ludicrous it will probably be. If, as in Butler's resemblance of the morning to a boiled lobster, there is a mixture of dignity and meanness, as well as of likeness and dissimilitude, the effect of the contrast will be more powerful, than if only one of these oppositions had occurred in the ludicrous idea. The sublimity of Don Quixote's mind, contrasted and connected with his miserable equipage, forms a very comical exhibition; but when all this is still further connected and contrasted with Sancho Panca, the ridicule is heightened exceedingly. Had the knight of the lions been better mounted and accoutred, he would not have made us smile so often; because, the hero's mind and circumstances being more adequately matched, the whole group would have united fewer inconsistencies, and reconciled fewer incongruities. Butler has combined a still greater variety of uncouth and jarring circumstances in Ralpho and Hudibras: but the picture, though more elaborate, is less natural. Yet this argues no defect of judgment. His design was, to make his hero not only ludicrous, but contemptible; and therefore he jumbles together, in his equipage and person, a number of mean and disgusting qualities, pedantry, ignorance, nastiness, and extreme deformity. But the knight of La Mancha, though a ludicrous, was never

intended for a contemptible, personage. He often moves our pity, he never forfeits our esteem; and his adventures and sentiments are generally interesting; which could not have been the case if his story had not been natural, and himself been endowed with great as well as good qualities. To have given him such a shape, and such weapons, arguments, boots, and breeches, as Butler has bestowed on his champion, would have destroyed that solemnity which is so striking a feature in Don Quixote; and Hudibras, with the manners and person of the Spanish hero, would not have been that paltry figure which the English poet meant to hold up to the laughter and contempt of his countrymen. Sir Launcelot Greaves is of Don Quixote's kindred, but a different character. Smollet's design was not to expose him to ridicule, but rather to recommend him to our pity and admiration. He has therefore given him youth, strength, and beauty, as well as courage and dignity of mind; has mounted him on a generous steed, and arrayed him in an elegant suit of armour. Yet, that the history might have a comic air, he has been careful to contrast and connect Sir Launcelot with a squire and other associates of very dissimilar tempers and circumstances.

"What has been said of the cause of laughter does not amount to an exact description, far less to a logical definition: there being innumerable combinations of congruity and inconsistency, of relation and contrariety, of likeness and dissimilitude, which are not ludicrous at all. If we could ascertain the peculiarities of these, we should be able to characterise with more accuracy the general nature of ludicrous combination. But before we proceed to this, it would be proper to evince, that of the present theory thus much at least is true, that though every incongruous combination is not ludicrous, every ludicrous combination is incongruous.

"It is only by a detail of facts or examples that any theory of this sort can be either established or overthrown. By such a detail, the foregoing theories have been, or may be, shown to be ill-founded, or not sufficiently comprehensive. A single instance of a laughable object, which neither unites, nor is supposed to unite, incongruous ideas, would likewise show the insufficiency of the present; nor will I undertake to prove (for indeed I cannot), that no such instance can be given. A complete enumeration of ludicrous objects it would be in vain to attempt: and therefore we can never hope to ascertain, beyond the possibility of doubt, that common quality which belongs to all ludicrous ideas that are, or have been, or may be, imagined. All that can be done in a case of this kind is to prove by a variety of examples, that the theory now proposed is more comprehensive, and better founded, than any of the foregoing." This our author afterwards shows at full length; but as the variety of examples adduced by him would take up too much room to be inserted here, and as every reader must be capable of adducing numberless instances of ludicrous cases to himself, we shall content ourselves with the above explanation of the different theories of laughter, referring those who desire further satisfaction to the treatise already quoted.

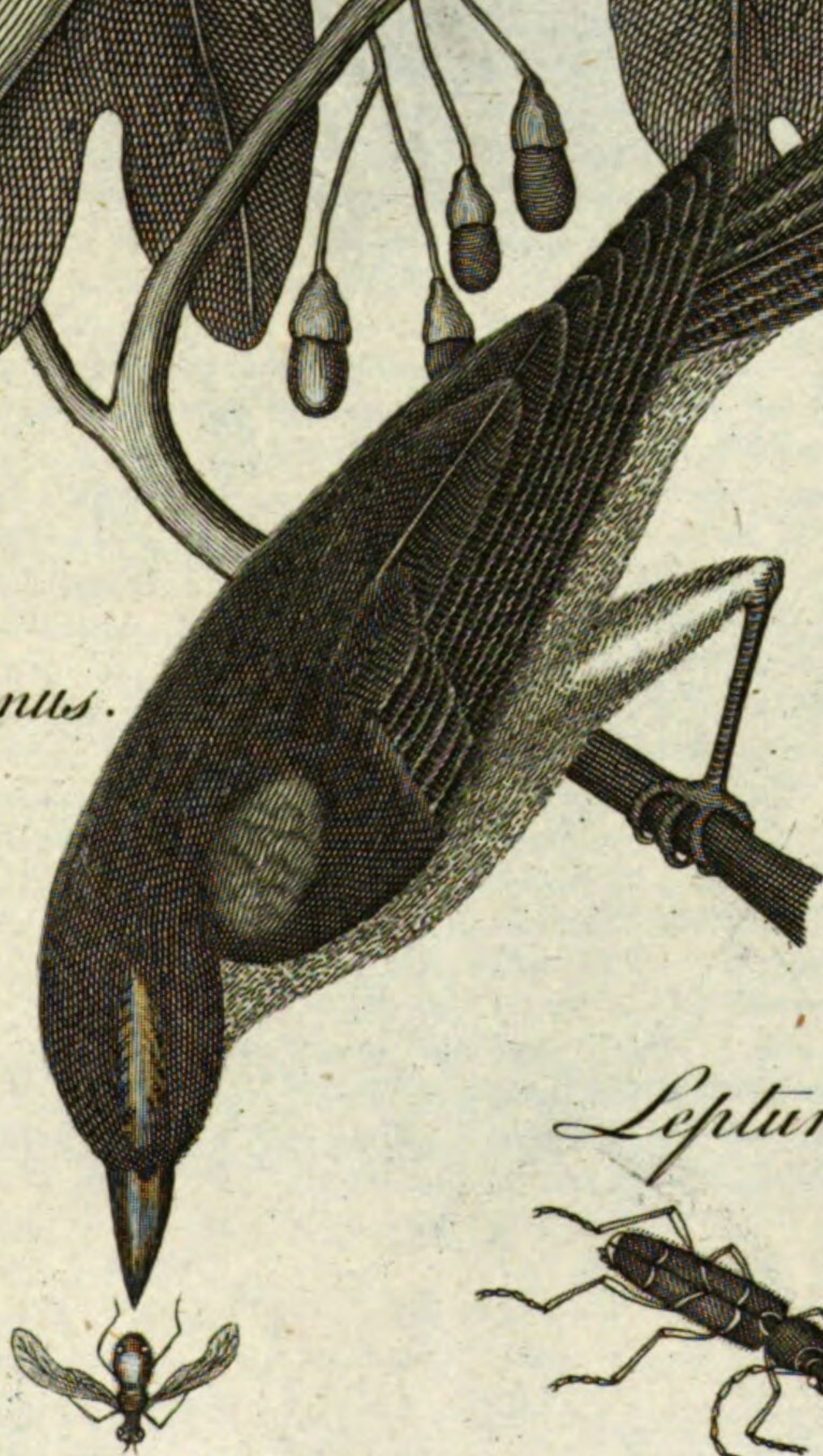
LAVINGTON-EAST, a town of Wilts, 4 miles south of the Devizes, and 89 miles from London. It is called in our histories Stepult-Lavington; but now Cheaping

Laughter,
Lavington.

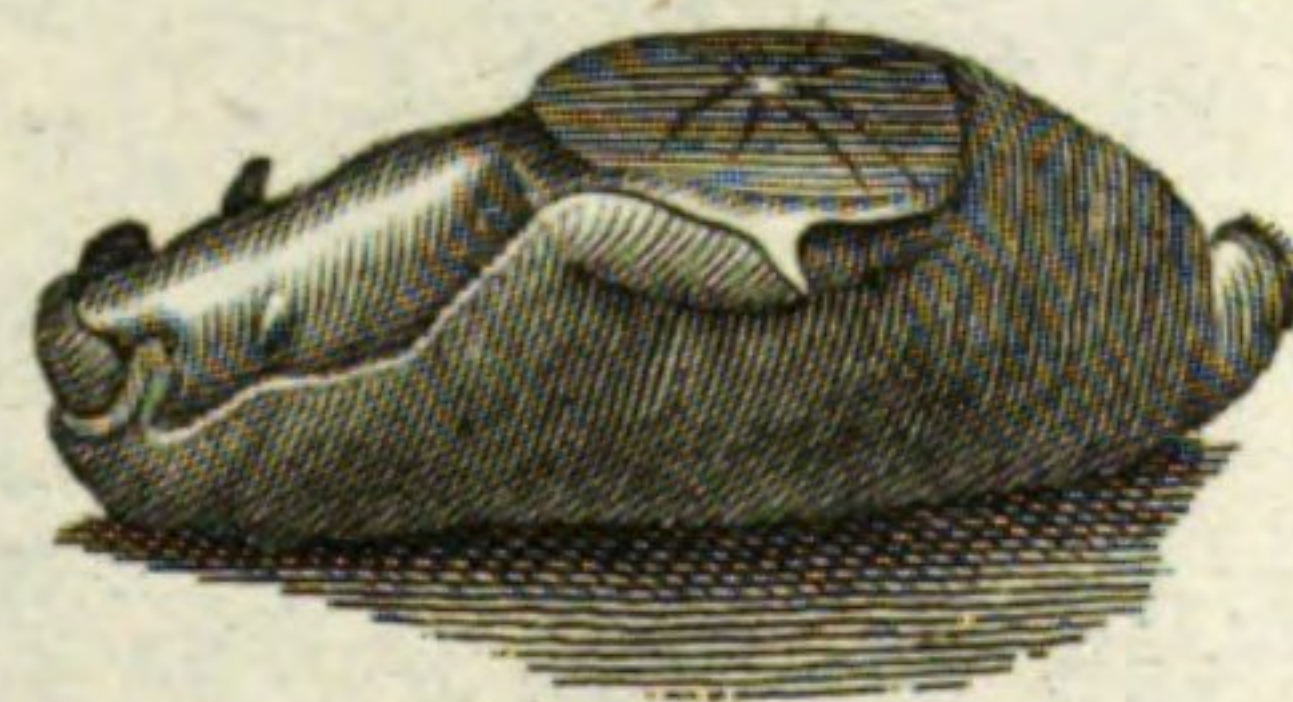
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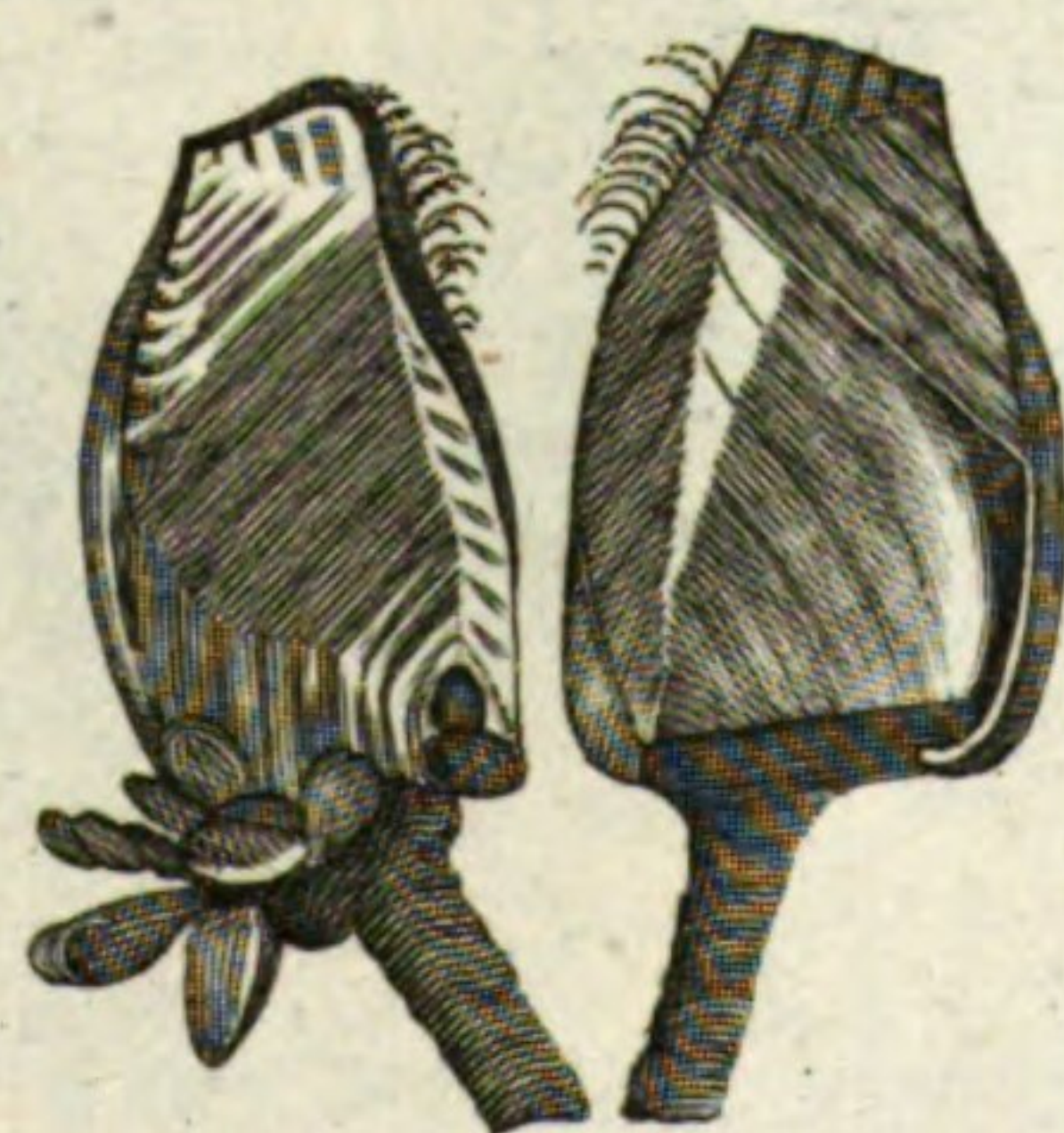
Lanius-tyrannus.



Laplysia.



Lepas anatifera.



Leptura.



A. Bell. Pin. Wal. Sculptor fecit.

Lavinium

Laura.

Cheaping or Market-Lavington on account of its markets, which are on Monday and Wednesday, the last a great corn-market. It is supposed to have been a market-town above 200 years. Here is a charity-school for 36 children, who have books given them, and the girls are taught to knit and sew.

LAVINIUM (anc. geog.), a town of Latium, six miles to the east of Laurentum, according to an ancient map; so named from *Lavinia*, consort of Æneas, and daughter of king Latinus, and built by the Trojans. The first town of Roman original in Latium, and the seat of the Dii Penates, (Livy): situated near the river Numicus, or Numicius; between which and the Tiber Æneas landed, according to Virgil. Holstenius supposes the town to have stood on an eminence, now called *il Monte di Levano*.

LAUNCE. See LANCE.

LAUNCESTON, a town of Cornwall in England, seated on the river Tamar, 214 miles from London. It is also called *Dunhivid*, from its situation on a down. King Henry III. made it a free borough. It was composed before of two other boroughs, viz. Dunhivid and Newport. It has been the place for choosing knights of the shire ever since the reign of King Edward I. and the assizes-town ever since Richard II. till by a late act of parliament the lord chancellor or lord keeper was empowered to name any other place in the county for it: since which the summer assizes have been held at Bodmin. It was incorporated by Queen Mary in 1555. It is governed by a mayor, recorder, and eight aldermen, has a free school which was founded by Queen Elizabeth, and is a populous trading town. Its markets are on Thursday and Saturday, and it has four fairs. In the 32d of Henry VIII. an act was made for the repair of this and other decayed Cornish boroughs; and it endowed this town with the privileges of a sanctuary, though it does not appear to have used them. It had a monastery and a noble castle, which, because of its strength, was called *castle-terrible*, and was given by King Richard I. to his brother, afterwards King John. Here are two charity-schools for 48 children of both sexes, where the girls are taught to knit, sew, and make bonelace, and are allowed what they can earn. Leland says it was walled in his time, and one mile in compass. Its list of burgesses commences in the 23d of Edward I. The lower part of its ancient castle is made use of for the gaol.

LAUNCH, in the sea-language, signifies to put out: as, *Launch the ship*, that is, Put her out of dock; *launch ast*, or *forward*, speaking of things that are stowed in the hold, is, put them more forward; *launch ho!* is a term used when a yard is hoisted high enough, and signifies *hoist no more*. See also LANCH.

LAUNDER, in mineralogy, a name given in Devonshire, and other places, to a long and shallow trough, which receives the powdered ore after it comes out of the box or coffer, which is a sort of mortar, in which it is powdered with iron pebbles. The powdered ore, which is washed into the launder by the water from the coffer, is always finest nearest the grate, and coarser all the way down.

LAURA, in church-history, a name given to a collection of little cells at some distance from each other,

in which the hermits in ancient times lived together in a wilderness. Laureate.

These hermits did not live in community, but each monk provided for himself in his distinct cell. The most celebrated lauras mentioned in ecclesiastical history were in Palestine: as the laura of St Euthymus, at four or five leagues distance from Jerusalem; the laura of St Saba, near the brook Cedron; the laura of the Towers, near the river Jordan, &c.

POET-LAUREATE, an officer of the household of the kings of Britain, whose business consists only in composing an ode annually on his majesty's birth-day, and on the new year; sometimes also, though rarely, on occasion of any remarkable victory.—Of the first institution of poets laureate, Mr Wharton has given the following account in his history of English poetry. "Great confusion has entered into this subject, on account of the degrees in grammar, which included rhetoric and versification, anciently taken in our universities, particularly at Oxford: on which occasion, a wreath of laurel was presented to the new graduate, who was afterwards usually styled *Poeta Laureatus*. These scholastic laureations, however, seem to have given rise to the appellation in question. I will give some instances at Oxford, which at the same time will explain the nature of the studies for which our academical philologists received their rewards. About the year 1470, one John Watson, a student in grammar, obtained a concession to be graduated and laureated in that science; on condition that he composed one hundred Latin verses in praise of the university, and a Latin comedy. Another grammarian was distinguished with the same badge, after having stipulated, that, at the next public act, he would affix the same number of hexameters on the great gates of St Mary's church, that they might be seen by the whole university. This was at that period the most convenient mode of publication. About the same time, one Maurice Byrchenfaw, a scholar in rhetoric, supplicated to be admitted to read lectures, that is, to take a degree in that faculty; and his petition was granted, with a provision, that he should write one hundred verses on the glory of the university, and not suffer Ovid's Art of Love, and the Elegies of Pamphilus, to be studied in auditory. Not long afterwards, one John Bulman, another rhetorician, having complied with the terms imposed, of explaining the first book of Tully's Offices, and likewise the first of his Epistles, without any pecuniary emolument, was graduated in rhetoric; and a crown of laurel was publicly placed on his head by the hands of the chancellor of the university. About the year 1489, Skelton was laureated at Oxford, and in the year 1493 was permitted to wear his laurel at Cambridge. Robert Whittington affords the last instance of a rhetorical degree at Oxford. He was a secular priest, and eminent for his various treatises in grammar, and for his facility in Latin poetry: having exercised his art many years, and submitting to the customary demand of an hundred verses, he was honoured with the laurel in the year 1512.

"With regard to the poet-laureate of the kings of England, he is undoubtedly the same that is styled the *king's versifier*, and to whom 100 shillings were paid as his

Laureate
 ||
 Laurentalia.

his annual stipend in the year 1251. But when or how that title commenced, and whether this officer was ever solemnly crowned with laurel at his first investiture, I will not pretend to determine, after the searches of the learned Selden on this question have proved unsuccessful. It seems most probable, that the barbarous and inglorious name of *versifier* gradually gave way to an appellation of more elegance and dignity: or rather, that at length those only were in general invited to this appointment, who had received academical sanction, and had merited a crown of laurel in the universities for their abilities in Latin composition, particularly Latin versification. Thus the *king's laureate* was nothing more than 'a graduated rhetorician employed in the service of the king.' That he originally wrote in Latin, appears from the ancient title *versificator*: and may be moreover collected from the two Latin poems, which Baſton and Gulielmus, who appear to have respectively acted in the capacity of royal poets to Richard I. and Edward II. officially composed on Richard's crusade, and Edward's siege of Striveling castle.

"Andrew Bernard, successively poet-laureate of Henry VII. and VIII. affords a still stronger proof that this officer was a Latin scholar. He was a native of Tholouse, and an Augustine monk. He was not only the king's poet-laureate, as it is supposed, but his historiographer, and preceptor in grammar to Prince Arthur. He obtained many ecclesiastical preferments in England. All the pieces now to be found, which he wrote in the character of poet-laureate, are in Latin. These are, "An *Address* to Henry VIII. for the most auspicious beginning of the 10th year of his reign, with an *Epithalamium* on the marriage of Francis the dauphin of France with the king's daughter;" *A New Year's Gift* for the 1515; and, *Verses* wishing prosperity to his majesty's 13th year. He has left some Latin hymns; and many of his Latin prose pieces, which he wrote in the quality of historiographer to both monarchs, are remaining.

"I am of opinion, that it was not customary for the royal laureate to write in English, till the reformation of religion had begun to diminish the veneration for the Latin language; or, rather, till the love of novelty, and a better sense of things, had banished the narrow pedantries of monastic erudition, and taught us to cultivate our native tongue."

LAUREL. See PRUNUS and LAURUS.

LAURELS, pieces of gold coined in the year 1619, with the king's head laureated, which gave them the name of *laurels*; the 20s. pieces whereof were marked with XX. the 10s. X. and the 5s. pieces with V.

LAURENS CASTRA. See LAURENTUM.

LAURENTALIA, or LARENTALIA, called also *Larentinalia*, *Laurentales*, and *Larentales*, feasts celebrated among the Romans on the 10th of the kalends of January, or 23d of December, in memory of Acca Laurentia, wife of the shepherd Faustulus, and nurse of Romulus and Remus.

Acca Laurentia, from whom the solemnity took its name, is represented as no less remarkable for the beauty of her person, than her lasciviousness; on account of which, she was nick-named by her neighbours *lupa*, "she-wolf;" which is said to have given rise to the tradition of Romulus and Remus being suckled by a

wolf. She afterwards married a very rich man, who brought her great wealth, which, at her death, she left to the Roman people; in consideration whereof they performed to her these honours; though others represent the feast as held in honour of Jupiter Latiaris. See LARENTINALIA and LARES.

LAURENTIUS, one of the first printers, and, according to some, the inventor of the art, was born at Haerlem about the year 1370, and executed several departments of magistracy of that city. Those writers are mistaken who assign to him the surname of *Coster*, or assert that the office of *ædituus* was hereditary in his family. In a diploma of Albert of Bavaria in 1380, in which, among other citizens of Haerlem, our Laurentius's father is mentioned by the name of *Joannes Laurentii filius*, Beroldus is called *ædituus*, who was surely of another family; and in 1396 and 1398, Henricus à Lunen enjoyed that office; after whose resignation, Count Albert conferring on the citizens the privilege of electing their *ædituus*, they, probably soon after, fixed on Laurentius; who was afterwards called *Coster* from his office, and not from his family-name, as he was descended from an illegitimate branch of the Gens Brederodia. His office was very lucrative; and that he was a man of great property, the elegance of his house may testify. That he was the inventor of printing, is asserted in the narrative of Junius. His first work was an *Horarium*, containing the Letters of the alphabet, the Lord's prayer, the apostle's creed, and two or three short prayers; the next was the *Speculum salutis*, in which he introduced pictures on wooden blocks; then *Donatus*, the larger size; and afterwards the same work in a less size. All these were printed on separate moveable wooden types fastened together by threads. If it be thought improbable, that so ingenious a man should have proceeded no farther than the invention of wooden types; it may be answered, that he printed for profit, not for fame; and wooden types were not only at that time made sooner and cheaper than metal could be, but were sufficiently durable for the small impressions of each book he must necessarily have printed.—His press was nearly shaped like the common wine-presses.—He printed some copies of all his books both on paper and vellum.—It has been very erroneously supposed, that he quitted the profession, and died broken-hearted: but it is certain, that he did not live to see the art brought to perfection.—He died in 1440, aged 70; and was succeeded either by his son-in-law Thomas Peter, who married his only daughter Lucia; or by their immediate descendants, Peter, Andrew, and Thomas; who were old enough (even if their father was dead, as it is likely he was) to conduct the business, the eldest being at least 22 or 23. What books they printed it is not easy to determine; they having, after the example of Laurentius (more anxious for profit than for fame), neither added to their books their names, the place where they were printed, or the date of the year. Their first essays were new editions of *Donatus* and the *Speculum*. They afterwards reprinted the latter, with a Latin translation, in which they used their grandfather's wooden pictures; and printed the book partly on wooden blocks, partly on wooden separate types, according to Mr Meerman, who has given an exact engraving

Lauren-
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Laurus.

graving of *each sort*, taken from different parts of the same book, which was published between the years 1442 and 1450. Nor did they stop here: they continued to print several editions of the *Speculum*, both in Latin and in Dutch; and many other works, particularly "Historia Alexandri Magni;" "Flavii Vegetii [for Vegetii] Renati Epitome de Re Militari;" and "Opera varia à Thomas Kempis." Of each of these Mr Meerman has given an engraved specimen. They were all printed with *separate wooden types*; and, by their great neatness, are a proof that the descendants of Laurentius were industrious in improving his invention. Kempis was printed at Haerlem in 1472, and was the last known work of Laurentius's descendants, who soon after disposed of all their materials, and probably quitted the employment; as the use of *fusile types* was about that time universally diffused through Holland by the settling of Martens at Aloft, where he pursued the art with reputation for upwards of 60 years. See (*History of*) PRINTING.

LAURENTIUM, or LAURENS CASTRA, (anc. geog.), a town of Latium, supposed to be the royal residence of those most ancient kings Latinus, Picus, and Faunus, (Virgil). Hither the emperor Commodus retired during a pestilence. Its name was from an adjoining grove of bay-trees, midway between Ostia and Antium. Supposed to have stood in the place now called *San Lorenzo*; which seems to be confirmed from the Via Laurentina leading to Rome.

LAURO (Philippo), a celebrated painter, born at Rome in 1623. He learned the first rudiments of the art from his father Balthasar, who was himself a good painter. He afterward studied under Angelo Carosello, his brother-in-law; and proved so great a proficient, that in a short time he far surpassed his tutor in design, colouring, and elegance of taste. He applied himself to painting historical subjects in a small size, enriching the back-grounds with lively landscapes, that afforded the eye and the judgment equal entertainment; but though his small paintings are best approved, he finished several grand compositions for altar-pieces that were highly esteemed. He died in 1694; and his works are eagerly bought up at high prices all over Europe.

LAURO, or *Lauron* (anc. geog.), a town of the Hither Spain, where Cn. Pompeius, son of Pompey the Great, was defeated and slain. Now Lorigne, five leagues to the north of Liria in Valencia.

LAURUS, the BAY-TREE: A genus of the monogynia order, belonging to the enneandria class of plants; and in the natural method ranking under the 12th order, *Holoraceae*. There is no calyx; the corolla is calycine, or serving in place of the calyx, and sex-partite; the nectarium with three glandules, each terminated by two bristles surrounding the germen. The interior filaments furnished with glandules at the base; the fruit a monospermous plum.

Species. 1. The nobilis, or evergreen bay-tree, is a native of Italy, and hath an upright trunk branching on every side from the bottom upward; with spear-shaped, nervous, stiff, evergreen leaves, three inches long and two broad; and small, yellowish, quadrisid, diœcious flowers, succeeded by red berries in autumn and winter. Of this species there are varieties, with broad, narrow, striped, or waved leaves. 2. The æsti-

valis, or deciduous bay, grows naturally in North America. It rises with an upright stem, covered with a purplish bark; having oblong, oval, acuminate, veined, deciduous leaves, two or three inches long, and half as broad, growing opposite; with small white flowers succeeded by red berries. 3. The benzoin, or benjamin tree, is also a native of North America; grows 15 or 20 feet high, divided into a very branchy head; with oval, acute, deciduous leaves, three or four inches long, and half as broad; and small yellowish flowers, not succeeded by berries in this country. 4. The sassafras is a native of the same country. It hath a shrub-like straight stem, garnished with both oval and three-lobed, shining, deciduous leaves, of different sizes, from three to six inches long, and near as broad, with small yellowish flowers succeeded by blackish berries, but not in this country. 5. The indica, or Indian bay-tree, rises with an upright straight trunk, branching regularly 20 or 30 feet high; adorned with very large, spear-shaped, plane, nervous, evergreen leaves on reddish footstalks; and bunches of small whitish-green flowers, succeeded by large oval black berries which do not ripen in this country. 6. The borbonia, or Carolina red bay-tree, rises with an upright straight stem, branching 15 or 20 feet high; with large, spear-shaped, evergreen leaves, transversely veined; and long bunches of flowers on red footstalks, succeeded by large blue berries sitting in red cups. 7. The camphora, or camphor-tree, grows naturally in the woods of the western parts of Japan, and in the adjacent islands. The root smells stronger of camphor than any of the other parts, and yields it in greater plenty. The bark of the stalk is outwardly somewhat rough; but in the inner surface smooth and mucous, and therefore easily separated from the wood, which is dry and of a white colour. The leaves stand upon slender footstalks, have an entire undulated margin, running out into a point; have the upper surface of a lively and shining green, the lower herbaceous and silky; and are furnished with a few lateral nerves, which stretch arch-wise to the circumference, and frequently terminate in small warts; a circumstance peculiar to this species of laurus. The flowers are produced on the tops of footstalks, which proceed from the arm-pits of the leaves; but not till the tree has attained considerable age and size. The flower-stalks are slender, branched at the top, and divided into very short pedicles, each supporting a single flower. These flowers are white, and consist of six petals, which are succeeded by a purple and shining berry of the size of a pea, and in figure somewhat top-shaped. It is composed of a soft pulpy substance that is purple, and has the taste of cloves and camphor; and of a nucleus or kernel of the size of a pepper, that is covered with a black, shining, oily corticle, of an insipid taste. 8. The cinnamomum, or cinnamon-tree, is a native of Ceylon. It hath a large root, and divides into several branches, covered with a bark, which on the outer side is of a greyish brown, and on the inside has a reddish cast. The wood of the root is hard, white, and has no smell. The body of the tree, which grows to the height of 20 or 30 feet, is covered, as well as its numerous branches, with a bark which at first is green and afterwards red. The leaf is longer and narrower than the common bay-tree; and it is three-nerved, the

Laurus.

Plates
CCLXIII.
CCLXIV.
and
CCLXV.

nerves;

Laurus.

nerves vanishing towards the top. When first unfolded, it is of a flame colour: but after it has been for some time exposed to the air, and grows dry, it changes to a deep green on the upper surface, and to a lighter on the lower. The flowers are small and white, and grow in large bunches at the extremity of the branches: they have an agreeable smell, something like that of the lily of the valley. The fruit is shaped like an acorn, but is not so large. 9. The cassia, or bafe cinnamon, has lanceolated leaves, triple nerved. 10. The Persea, avocado-pear tree, or alligator pear, rises to a considerable height, with a straight trunk, of which the bark and wood are of a greyish colour. The leaves are long, oval, pointed, of a substance like leather, and of a beautiful green colour. The flowers are produced in large knots or clusters at the extremities of the branches, and consist each of six petals disposed in the form of a star, and of a dirty white or yellow colour, with an agreeable odour, which diffuses itself to a considerable distance. It is a native of the West Indies. The Persea begins to bear two years and a half, or at most three years after being planted; and, like most of the trees in warm climates, bears twice a year. There are two other species of this genus, but possessed of no remarkable properties.

Culture. The first species is propagated by layers, or by the berries. In order to raise a quantity of these trees by layers, some stools should be planted for the purpose; and after these are shot about a yard high, the branches must be brought down to the ground in the winter, all the preceding summer's shoots laid on it, and pegged down (being first slit in the joint), and the leaves taken off, which would otherwise be under ground. In one year's time these layers will have taken root; and in the spring they should be taken up, and planted in the nursery a foot asunder, in rows two feet distance. After they are planted out, if the weather should prove dry, they must be constantly watered; for without such care, it is difficult to make this tree grow. After they have taken well to the ground, they will require no farther trouble than keeping them clean from weeds, and digging between the rows each winter, till they are finally planted out. 2. In order to raise this tree from the berries, they ought to hang on the trees till about January before they are gathered. A well-sheltered spot of ground for the seminary must be made choice of; and having the mould smooth and fine, they should be sown soon after they are gathered, in beds or drills, rather more than half an inch deep. Towards the close of the spring the plants will come up, and during summer must be duly attended, by watering and weeding. In the winter following, their sheltered situation must not be trusted to, to defend them from the frost: Furze-bushes, or some such things, ought to be stuck in rows between the beds or drills, to guard them from the black frosts. Indeed, without this precaution, if the winter should prove very frosty, few of the young seedlings will be alive in spring. During the following summer, weeding and watering must be observed, and the winter after that they should be defended with covering as before; for they will be still in danger of being destroyed by severe frosts. In the ensuing spring, the strongest may be taken out of the seed-beds, and planted in the nursery way; though, if they have not by that time made good

N^o 175.

shoots, it will be advisable to let them remain in their beds till the third spring; for a small plant of this kind is with more difficulty made to grow than one which is larger. When they are planted in the nursery, the distance which should be allowed them is the same as the layers, a foot asunder and two feet distance in the rows; and this will not be found too close; for notwithstanding the greatest care is exerted in planting them in the nursery, even making choice of rainy and cloudy weather, which must always be observed in setting them out, many of them will be lost by being transplanted. After they are thus planted out in the nursery, whether layers or seedlings, they must be still watered in dry weather, kept free from weeds, and the rows dug between every winter. You will even find, that those plants which suffer least by being transplanted will have met with a check, which they will not recover in two or three years; and till they have acquired new strength they should not be taken from the nursery; but when they appear to be good stiff plants, having the year before made a vigorous shoot, they will be then proper plants for planting out where they are to remain. Holes should be got ready for their reception; and as soon as the first autumnal rains fall, the work should be set about, especially if the land be gravelly or dry; but if it be moist, the spring will do as well. Being now planted at one yard distance, they will make a poor progress for two or three years more; but after this, when they have overcome all these difficulties, they will grow very fast, and arrive to be good trees in a few years. Although this tree flourishes best in old gardens, where the soil has been made rich and deep, and loves the shade, Hanbury tells us, "it thrives nevertheless exceedingly well in our hottest gravels and sands; and after it has surmounted the hardships of transplanting, will grow in such situations extremely fast, and arrive to a large bulk."

The propagation of the three next sorts of trees may be performed two or three ways, 1. By the seeds. These we receive, from the places where the trees grow naturally, in the spring. They should be preserved in sand; and as soon as they arrive, should be sown in largish pots an inch deep. The soil for their reception should be taken from a rich pasture at least a year before, with the sward. It should also be laid on an heap, and frequently turned, until the sward is grown rotten, and the whole appears well mixed and fine. If the pasture from whence it was taken near the surface is a sandy loam, this is the best compost for these seeds; if not, a small addition of drift or sea sand should be added, and well mixed with the other mould. After filling the pots with this soil, the seeds should be sown an inch deep; and then they should be plunged into common mould up to the rim. If the soil be naturally moist, it will keep them cooler, and be better; and if the place be well sheltered and shaded, it will be better still. Nothing more than weeding, which must be constantly observed during the summer, will be necessary; and in this station they may remain until the March following: about the middle of which month, having prepared a good hot-bed, the pots should be taken up and plunged therein. Soon after the seeds will come up; and when the young plants have sufficiently received the benefit of this bed, they should be enu-

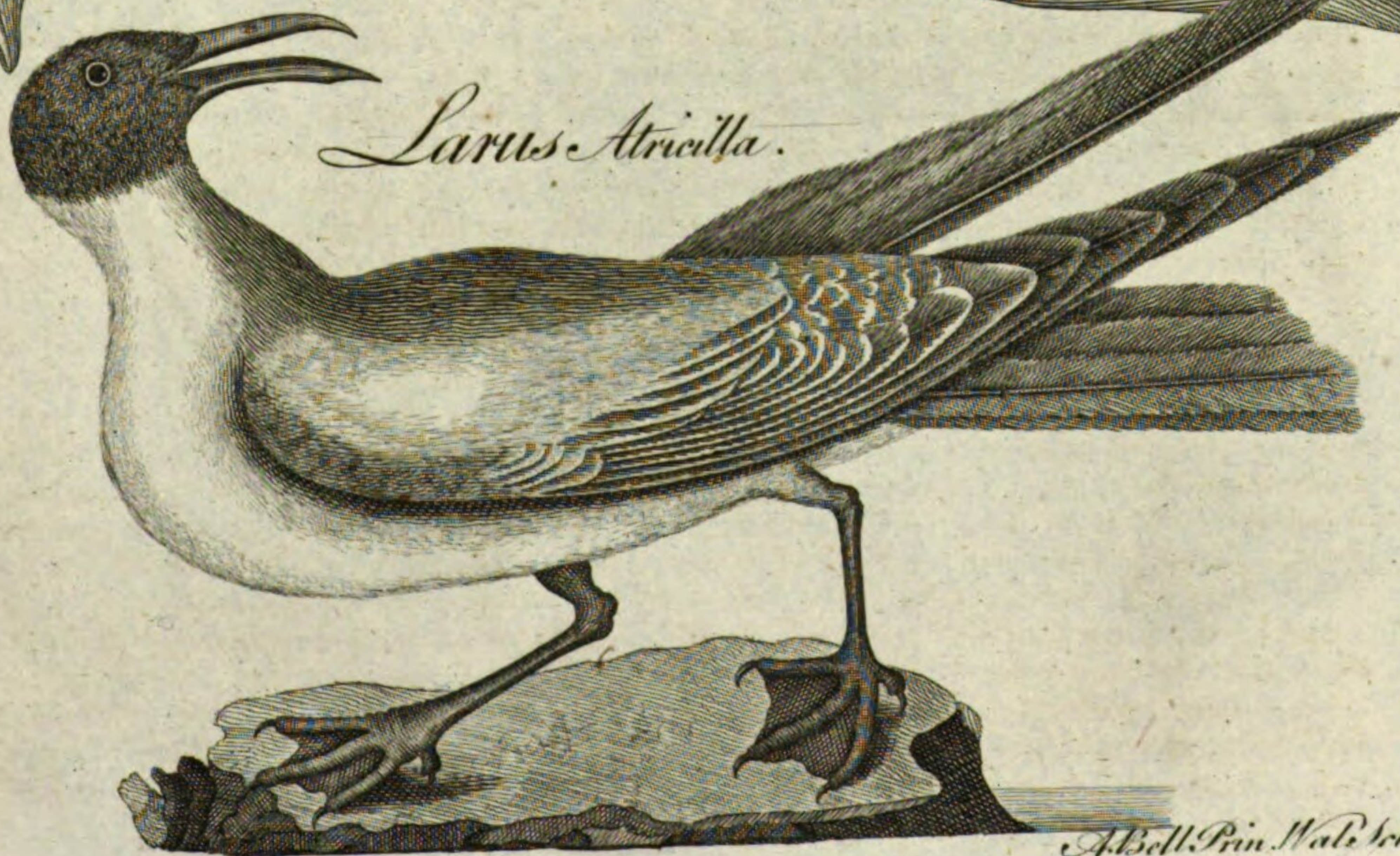
Laurus.

Laurus Cinnamomum.

Plate CCLXIV.



Lanius Dominicanus.



Lanius Atricilla.

A. Bell. Pin. Wal. sculptor fecit.

Laurus.

red by degrees to the open air. Weeding and watering must be observed during the summer; and at the approach of the cold weather in the autumn, they should be removed under an hot-bed frame, or some cover, to be protected from the frosts during the winter. In the spring, when this danger is over, they should resume their first station; namely, the pots should be plunged up to the rim, as when the seeds were first sown; and if this place be well sheltered, they may remain there all winter; if not, and severe frosts threaten, they should be taken up and placed under cover as before. After they have been thus managed three years from the seeds, they should be taken out of the pots with care, and planted in the nursery-ground at small distances, where they may remain until they are strong enough to be finally set out. By sowing the seeds in pots, and assisting them by an hot-bed, a year at least is saved; for they hardly ever come up, when sown in a natural border, under two years from the seeds; nay, they have been known to remain three, and even some plants to come up the fourth year after sowing; which at once shows the preference of the former practice, and should caution all who have not such convenience, not to be too hasty in disturbing the beds when the seeds are sown in the natural ground; as, especially if they are not well preserved in mould or sand, these may be some years before they appear. Indeed, it is the long time we are in obtaining these plants, either by seeds, layers, &c. that makes them at present so very scarce amongst us. 2. These plants may also be increased by layers; but very slowly; for they will be two, and sometimes three, or even four years, before they have struck out good roots; though the Benjamin tree is propagated the fastest by this method. The young twigs should be laid in the ground in the autumn; and it will be found that twisting the wire round the bud, so as in some degree to stop the progress of the sap, and taking away with a knife a little of the bark, is a more effectual method of obtaining good roots soon than by the slit or twisting, especially when practised on the sassafras tree. 3. Plants of these sorts are likewise sometimes obtained by suckers, which they will at all times throw out, and which may be often taken off with pretty good roots; but when they are weak, and with bad roots, they should be planted in pots, and assisted by a moderate heat in a bed: With such management they will be good plants by the autumn, and in the spring may be planted out any where. 4. Cuttings of these trees, when planted in a good bark bed, and duly watered, will also oftentimes grow. When this method is practised, and plants obtained, they must be inured by degrees to the open air, till they are hardy enough to be finally planted out.

The Indian bay, the camphor, the avocado, and the cinnamon tree, require the treatment common to green-house plants; the latter, however, is rather a stove plant in this country.—Of its culture or propagation in its native places, no particular account has been given by botanical writers; but it must now become an important consideration with us, since this valuable tree has been acquired by our own colonies. Of the advantages promised by this acquisition we are indebted for the first accounts to Dr Wright in 1787†; from whom also we learn that its propagation is very

easy, and its culture requires little care, as more particularly noticed below. Since that time, some observations by Dr Dancer, relative to its cultivation, have appeared in the Transactions * of the Society of Arts, &c. These observations confirm, without adding any thing essential to the concise notice of Dr Wright. We are informed, that as the tree “puts out numerous side-branches, with a dense foliage, from the very bottom of the trunk; this furnishes an opportunity of obtaining plenty of layers, and facilitates the propagation of the tree, as it does not perfect its seeds in any quantity under six or seven years; when it becomes so plentifully loaded, that a single tree is sufficient almost for a colony. It seems to delight in a loose moist soil, and to require a southern aspect; the trees, thus planted, flourishing better than others growing in loam, and not so well exposed to the sun. When healthy, it is (from layers) of a pretty quick growth, reaching in eight years the height of fifteen or twenty feet, is very spreading, and furnished with numerous branches of a fit size for decortication. The seeds, however, are a long time in coming up, and the plants make small progress for the first year or two.” It is added, that “the birds appear to be very fond of the berries, and will probably propagate this tree in the same way they do many others every where over the island; so that in a short time it will grow spontaneously, or without cultivation.” The age for decortication, said above to be eight years, it will be observed, is different from that specified below for the trees in Ceylon.

Uses. Evelyn says, he has seen bay trees near 30 feet high, and almost two feet in diameter; and enumerates the bay amongst useful trees. Hanbury catches at this idea, and tells us in general terms, that “it will grow to 30 feet in height, with a trunk of two feet in diameter;” and accordingly he arranges it among his forest trees: he acknowledges, however, at the same time, that the wood is of little value. The bay is nevertheless a fine aromatic and a beautiful evergreen: It is said to be the true *laurus* or laurel of the ancients, with which they adorned the brows of their successful generals. Like the holly, box, and laurel, the bay will bear the shade and drip of taller trees; and it is upon the whole a very desirable, as being a very ornamental, evergreen.

The leaves and berries of this tree have a moderately strong aromatic smell, and a warm, bitterish, pungent taste: the berries are stronger in both respects than the leaves, and afford in distillation a larger quantity of essential aromatic oil; they yield also an almost insipid oil to the press, in consequence of which they prove unctuous in the mouth. They are warm carminatives, and sometimes exhibited in this intention against flatulent colics, and likewise in hysterical disorders. Their principal use in the present practice is in glysters, and some external applications. The deciduous bay, in a moist rich soil, in which it principally delights, will grow to be about 16 feet high; but in some soils, that are possessed of the opposite qualities, it will hardly arrive at half that height. The flowers are succeeded in May by large red berries, which never ripen in England: so that, notwithstanding the leaves in summer are very pretty, and the colour of the bark makes a variety in winter, it is principally

Laurus.

* Vol. VIII. p. 214. &c.

† Lond. Med. Journal, Vol. III. part 3.

Laurus.

cipally the scarcity of this plant which makes it valuable.

The *benzoin* tree will grow to a much larger size than the other, and its branches are more numerous. They are smooth, and of a fine light-green colour. The leaves on their upper surface are smooth and of a fine light-green colour, but their under surface is venose, and of a whitish cast. When bruised, they emit a fine fragrance. This tree was formerly mistaken for that which produces the drug called *benzoin*; which is now known to be obtained from a species of *styrax*. See *STYRAX*.

The *sassafras* will grow to nearly the height of the others, though the branches are not so numerous. Its bark is smooth, and of a red colour, which beautifully distinguishes it in winter; whilst the fine shining green of its leaves constitutes its greatest beauty in summer. In these, indeed, there is a variety, and a very extraordinary one. Some are large, and of an oval figure; others are smaller, and of the same shape; whilst others again are so divided into three lobes, as to resemble the leaves of some sorts of the fig-tree. In America, the *sassafras* generally stands single in the woods, and along the fences round the fields. It flowers in May before the leaves come out; and being entirely covered with them, it is distinguished at a great distance by their beautiful yellow colour.

The root of the *sassafras* has a fragrant smell, and a sweetish, aromatic, subacid taste; the bark tastes much stronger than any other part, and the small twigs stronger than the large pieces. It is a warm aperient and corroborant, and frequently employed with good success for purifying and sweetening the blood and juices. For these purposes, infusions made from the rasped root or bark may be drank as tea. In some constitutions indeed, such liquors are, by their fragrance, apt, on first taking them, to affect the head; but in such cases they may be advantageously freed from their flavour by boiling. A decoction of *sassafras*, boiled down to the consistence of an extract, proves simply bitterish and substringent. Hoffman assures us, that he has frequently given this extract to the quantity of a scruple at a time, with remarkable success, for strengthening the tone of the viscera in cachexies; as also in the decline of intermittent fevers, and in hypochondriacal spasms. *Sassafras* yields in distillation an extremely fragrant oil of a penetrating pungent taste, so ponderous (notwithstanding the lightness of the drug itself) as to sink in water. Rectified spirit extracts the whole taste and smell of *sassafras*; and elevates nothing in evaporation: hence the spirituous extract proves the most elegant and efficacious preparation, as containing the virtue of the root entire.

The bark of this tree is used by the women in Pennsylvania and other parts of North America in dying worsted a fine lasting orange-colour, which does not fade in the sun. They use urine instead of alum in dying; and boil the dye in a brass boiler, because in an iron vessel it does not yield so fine a colour. The wood is made use of for posts belonging to the inclosures, for it is said to last a long time in the ground: but it is likewise said, that there is hardly any kind of wood which is more attacked by worms than this when it is exposed to the air without cover; and that in a short time it is quite worm-eaten through and through.

Kalm's
Travels in
America.

Laurus.

On cutting some part of the *sassafras* tree, or its shoots, and holding it to the nose, it has a strong but pleasant smell. Some people peel the root, and boil the peel with the beer which they are brewing, because they believe it wholesome. For the same reason, the peel is put into brandy either whilst it is distilling or after it is made. Professor Kalm informs us, that a decoction of the root of *sassafras* in water, drank every morning, is used with success in the dropsy.—When part of a wood is destined for cultivation, the *sassafras* trees are commonly left upon it, because they have a very thick foliage, and afford a cool shade to the cattle during the great heats. Some people get their bedposts made of *sassafras* wood, in order to expel the bugs; for its strong scent, it is said, prevents those vermin from settling in them. For two or three years together this has the desired effect, or about as long as the wood keeps its strong aromatic smell; but after that time it has been observed to lose its effect. In Pennsylvania some people put chips of *sassafras* into their chests, where they keep all sorts of woollen stuffs, in order to expel the moths (or larvæ or caterpillars of moths or tinies) which commonly settle in them in summer. The root keeps its smell for a long while: Professor Kalm saw one which had lain five or six years in the drawer of a table, and still preserved the strength of its scent. The people also gather its flowers, and use it as tea.

The *persea*, or *alligator pear* tree, is cultivated universally in the West Indies by all ranks of people. The fruit is pear-shaped, and from one to two pounds in weight. On removing a green skin or covering, we come to a yellow butyraceous substance; and in the heart find a large round seed or stone, which is unequal in the surface, and exceedingly hard and woody. This fruit is ripe in August and September, and constitutes one of the most agreeable articles of diet for six or eight weeks to the negroes. These pears, with a little salt and a plantain or two, afford a hearty meal. They are also served up at the tables of white people as choice fruit. When the pear is ripe, the yellow or eatable substance is firmer than butter, and tastes somewhat like butter or marrow: hence it is called by some the *vegetable marrow*. But however excellent this fruit is when ripe, it is very dangerous when pulled and eaten before maturity. Dr Wright says, he has repeatedly known it to produce fever and dysentery, which were removed with difficulty.—The leaves of this tree and those of the bead-vine or wild liquorice are made into pectoral decoctions by the common people.—The large stone is used for marking linen. The cloth is tied or held over the stone, and the letters are pricked out by a needle through the cloth and into the seed. The stain is a reddish brown, which never washes out.—The buds of the alligator tree are said to be used with success in ptisans against the venereal disease. An infusion of them in water, drank in the morning fasting, is strongly recommended for dislodging coagulated blood in the stomach produced by a fall or a severe stroke on that important entrail. “The wild boars in the East Indies (says Labat) eat greedily of the mammees and avocado pears, which give their flesh a luscious and most agreeable flavour.”

Cassia. The bark of this species is known in the shops by the name of *cassia lignea*. This bark, which

is

Laurus. is imported from different parts of the East Indies and from China, has a very near resemblance to the cinnamon; though distinguishable from it by being of a thicker and coarser appearance, and by its breaking short and smooth, while the cinnamon breaks fibrous and shivery.—It resembles cinnamon still more exactly in its aromatic flavour than in its external appearance; and seems only to differ from it in being somewhat weaker, in abounding more with a viscous mucilaginous matter, and in being less astringent. Accordingly, it has not only a place in the Edinburgh pharmacopœia, but is also the basis of a distilled water. It is perhaps surprising that the London college have given it no place in their lists. But although it does not enter their pharmacopœia, yet we may venture to assert, that it will not be neglected by the apothecaries. At present it is very common with many of them to substitute the cassia in every case for the more expensive article cinnamon: and indeed almost the whole of what is at present sold under the title either of simple or spirituous cinnamon-water is entirely prepared from cassia; and not even entirely from the bark, but from a mixture of the bark and buds.

Cinnamon is the under-bark of the *cinnamomum*. The best season for separating it from the outer-bark, which is grey and rugged, is the spring, when the sap flows in the greatest abundance. It is cut into thin slices, and exposed to the sun, and curls up in drying.—The old trees produce a coarse kind of cinnamon; the spice is in perfection only when the trees are not older than three or four years. When the trunk has been stripped of its bark, it receives no further nourishment; but the root is still alive, and continues to throw out fresh shoots. The fruit of the tree is shaped like an acorn, but is not so large. Its seed, when boiled in water, yields an oil which swims at top, and takes fire. If left to cool, it hardens into a white substance, of which candles are made, which have an agreeable smell, and are reserved for the use of the king of Ceylon. The cinnamon is not reckoned excellent unless it be fine, smooth, brittle, thin, of a yellow colour inclining to red; fragrant, aromatic, and of a poignant, yet agreeable taste. The connoisseurs give the preference to that the pieces of which are long, but slender. That which comes to us is generally mixed with the Cassia bark; but this last is easily distinguished. Cinnamon splinters in breaking, and has a roughness along with its aromatic flavour; while the Cassia breaks over smooth, and has a mucilaginous taste. Cinnamon is a very elegant and useful aromatic, more grateful both to the palate and stomach than most other substances of this class. By its astringent quality it likewise corroborates the viscera, and proves of great service in several kinds of alvine fluxes, and immoderate discharges from the uterus.

The cinnamon plant, with other valuable ones, was taken in a French ship by Admiral Rodney in the last war, and presented by him to the assembly of Jamaica. One of the trees was planted in the botanic garden in St Thomas in the East; the other by Hinton East, Esq; in his noble garden at the foot of the Blue Mountains. From these parent trees some hundreds of young trees are already produced from layers and cuttings, and dispersed to different parts of the country, in all which it thrives luxuriantly with little trouble: we

may therefore hope it will soon be a valuable addition to our commerce. Upon comparing the parts of the tree with the description and figure given by Burman and other botanists, it appears to be the real Ceylon cinnamon, and of the best kind, called by the natives *Rasle Coronde*: but the specimens of bark taken put it out of all doubt, being, in the opinion of the best judges, of an equal, if not superior, quality to any imported from India. The smallest bit of the bark, Dr Wright assures us, is quite a cordial. The cinnamon we have from Holland, he observes, is often inert, and gives room to suspect that it has been subjected to a slight process in distillation.

In regard to the trees growing in Jamaica, Dr Dancer informs us in his paper already quoted, that “The best cinnamon bark, according to the different trials I have made, is taken from the small branches, of about an inch diameter, the larger limbs not being so easily decorticated, and not yielding so good or so strong a cinnamon. The smaller twigs, or those that have not acquired a cineritious bark, are too full of sap and mucilage, and have little *aroma*. It is the *liber*, or inner bark, that constitutes the cinnamon; from which the two external barks must be carefully and entirely separated, or they vitiate the flavour of the cinnamon; to do which with dexterity, and to raise the bark from the wood, requires some practice. The bark being separated, the smaller pieces are to be placed within the larger; which, by exposure to the sun or the air, presently coil up, and require no further preparation. A dry season is the proper one for taking the bark; as it is found to be weakened after long or heavy rains. Cinnamon, though more retentive of its virtues than any of the other spices, yet requires to be protected, when taken from the air and moisture, by close packing in cedar chests.—The leaves of this tree, whether recent or dried, are so strongly impregnated with an *aroma*, as to afford a good succedaneum for the bark both in cookery and medicine. Distilled, they give an excellent simple and spirituous water, and an essential oil. Powdered, they are a good aromatic species, or mareschal perfume.”

Camphor, though solid, is the essential oil of the *laurus camphora*; and is obtained from it by distillation in the East Indies. (See the article CAMPHORA).—This tree is another of the captured plants given to the inhabitants of Jamaica; and, if cultivated with care, will also be an useful acquisition.

The Abbe Grosier informs us, that in China some of these trees are found above 100 cubits in height, and so thick that 20 persons cannot inclose them. The tree is there called *tchang*; and it is said that the trunk, when old, emits sparks of fire, but of so subtle a nature as not even to injure the hair of those who are near it. Common camphire costs only a penny the ounce at Pe-king; but it is inferior to that of Borneo, in the judgment even of the Chinese.

The manner in which some authors have spoken of Camphire (the Abbe observes), gives us reason to conclude that they have been entirely ignorant of the process employed to obtain this salutary gum. The camphire does not drop to the earth, like the gums of certain resinous trees, which are preserved by discharging that part of their substance which is too oily; neither does it distil from the top to the bottom of the

Laurus,
Laus.

tree through an incision made in it. The Chinese would practise this method could it be employed with success; for it is very common in China to make such kind of incisions in resinous trees. The method used by the Chinese for obtaining camphire is as follows.—They take some branches fresh from the *tchang*, chop them very small, and lay them to steep in spring-water for three days and three nights. After they have been soaked in this manner, they are put into a kettle, where they are boiled for a certain time, during which they keep continually stirring them with a stick made of willow. When they perceive that the sap of these small chips adheres sufficiently to the stick in the form of white froth, they strain the whole, taking care to throw away the dregs and refuse. This juice is afterwards poured gently into a new earthen basin well varnished, in which it is suffered to remain one night. Next morning it is found coagulated, and formed into a solid mass. To purify this first preparation, they procure some earth from an old earthen wall, which, when pounded and reduced to a very fine powder, they put into the bottom of a basin made of red copper; over this layer of earth they spread a layer of camphire, and continue thus until they have laid four strata. The last, which is of very fine earth, they cover up with the leaves of the plant *po-ho*, or pennyroyal; and over the whole they place another basin, joining it very closely to the former by means of a kind of red earth that cements their brims together. The basin thus prepared is put over a fire, which must be managed so as to keep up an equal heat: experience teaches them to observe the proper degree. But above all, they must be very attentive lest the plaster of fat earth which keeps the basins together should crack or fall off; otherwise the spirituous parts would evaporate and ruin the whole process. When the basins have been exposed to the necessary heat, they are taken off and left to cool; after which they are separated, and the sublimated camphire is found adhering to the cover. If this operation be repeated two or three times, the camphire is found purer and in larger pieces. Whenever it is necessary to use any quantity of this substance, it is put between two earthen vessels, the edges of which are surrounded with several bands of wet paper. These vessels are kept for about an hour over an equal and moderate fire; and when they are cool, the camphire is found in its utmost perfection and ready for use. This method of procuring camphire, even from the heart of the tree, may be practised in all seasons of the year; which would not be the case (our author observes), were it extracted like other resinous substances that only flow during a certain short space of time. Besides, by lopping the branches of the camphire-tree, less hurt is done to it than by making incisions, which are always hazardous.

LAUS, or LAOS (anc. geog.), a river of Italy, separating Lucania from the Bruttii, and running from east to west into the Tuscan sea; with a cognominal bay, and a town, the last of Lucania, a little above the sea; a colony from Sybaris, according to Strabo, Pliny, Stephanus. Both town and river are now called *Laino*, in the Calabria Citra; and the bay, called *Golfo della Scalea*, or *di Policastro*, two adjoining towns, is a part of the Tuscan sea, extending between the promontory Palinurus and the mouth of the Laus.

Laus Pompeia (anc. geog.), a town of Insubria, situated to the east of Milan, between the rivers Addua and Lamber. A town built by the Boii after their passing the Alps: its ancient Gaulic name is unknown. Strabo Pompeius, father of Pompey, leading thither a colony, gave it a new name, and conferred the *Jus Latii* on the ancient inhabitants who remained there. The modern Lodi is built from its ruins, at some distance off. E. Long. 10. 15. N. Lat. 45. 22.

LAUSANNE, a large, ancient, and handsome town of Switzerland, capital of the country of Vaud, and in the canton of Berne, with a famous college and bishop's see. The town-house and the other public buildings are magnificent. It is seated between three hills near the lake of Geneva, in E. Long. 6. 35. N. Lat. 46. 30.—The town stands on an ascent so steep, that in some places the horses cannot draw up a carriage without great difficulty, and foot-passengers ascend to the upper part of the town by steps. Here is an academy for the students of the country; the professors are appointed by government; and there is a pretty good public library. The church, formerly the cathedral, is a magnificent Gothic building, standing on the most elevated part of the town. Among other sepulchres it contains that of Amadæus VIII. duke of Savoy, styled the *Solomon* of his age; best known by the title of *Antipope Felix V.* who exhibited the singular example of a man twice abdicating the sovereignty, and retiring from regal pomp to a private station.

The same year that the country named *Pays de Vaud* was conquered from the house of Savoy, the inhabitants of Lausanne put themselves under the protection of the Canton of Berne, their bishop having retired from the town. At that time its privileges were confirmed and augmented, and it is still governed by its own magistrates. The citizens of the principal street have the privilege of pronouncing sentence in criminal cases. If the criminal is found, and acknowledges himself guilty, the burghers of the street assemble: one of the magistrates pleads in his behalf, and another against him; the court of justice give their opinion upon the point of law; and the majority of citizens possessing houses in the principal street, determine the penalty. In capital cases there is no pardon; according to the letter of the law, unless it can be obtained within 24 hours from the sovereign council of Berne, though it generally happens that eight days are allowed for this purpose. When the criminal is seized within the jurisdiction of the town, the fact is tried, and the burghers pronounce sentence, from which there is no appeal; but if he happens to be taken in the district of the bailiff, there is an appeal to the government of Berne.

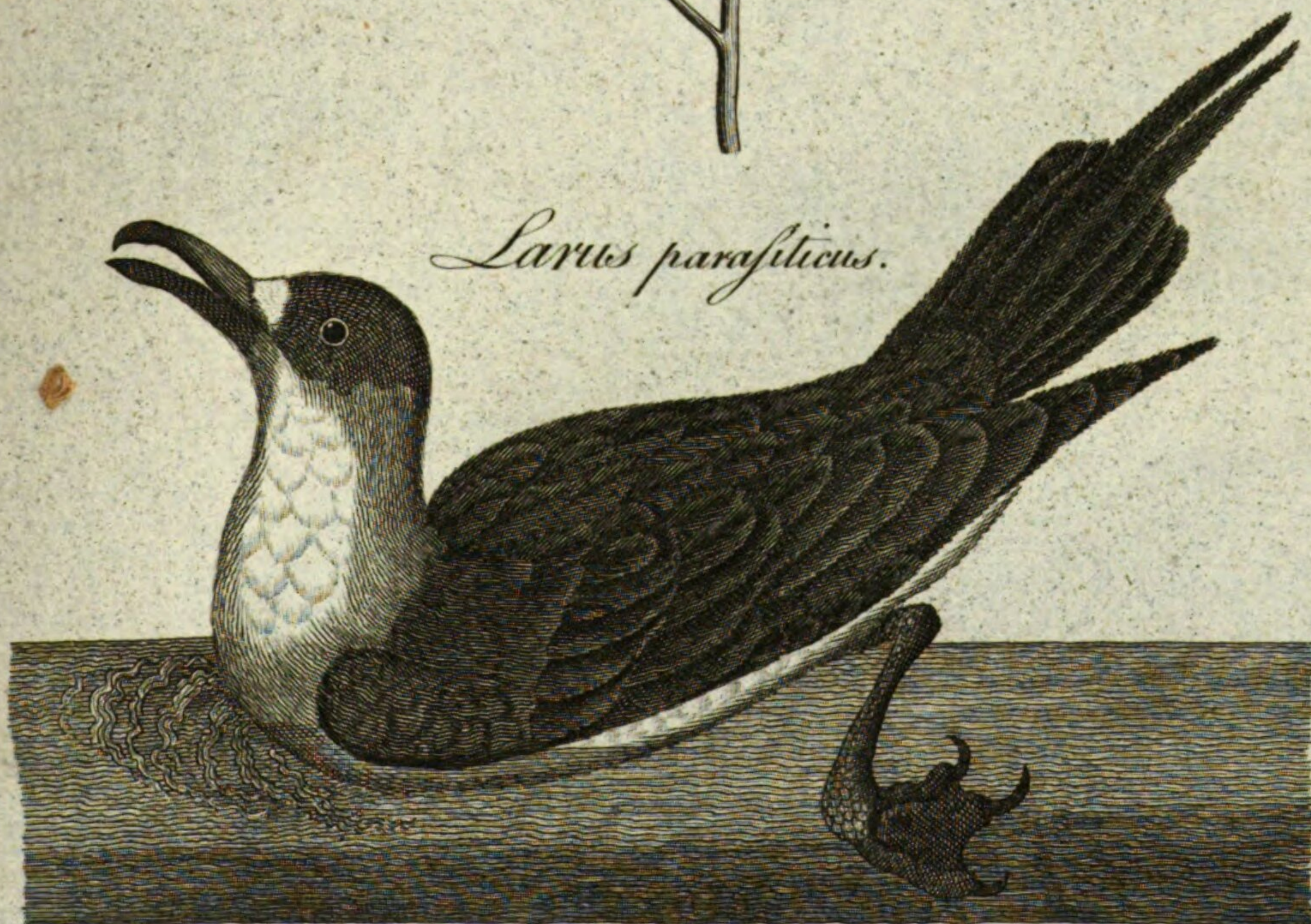
LAVORI (TERRA DI), a province of Italy, in the kingdom of Naples, bounded on the west by the Campagna of Rome, and by Farther Abruzzo; on the north by the Citerior Abruzzo, and by the county of Molissa; on the east by the Ultra Principata; and on the south by the Principata Citra. It is about 63 miles in length and 35 in breadth; and is fertile in corn, excellent vines, and other fruits. There are also several mineral springs and mines of sulphur; Naples is the capital town.

Laus,
Lavori.

Laurus Camphora.



Larus parasiticus.



L A W.

PART I. OF THE NATURE OF LAWS IN GENERAL.

Of Laws
in general.Definition;
general,
and

LAW, in its most general and comprehensive sense, signifies a rule of action; and is applied indiscriminately to all kinds of action, whether animate or inanimate, rational or irrational. Thus we say, the laws of motion, of gravitation, of optics, of mechanics, as well as the laws of nature and of nations. And it is that rule of action which is prescribed by some superior, and which the inferior is bound to obey.

Thus when the Supreme Being formed the universe, and created matter out of nothing, he impressed certain principles upon that matter, from which it can never depart, and without which it would cease to be. When he put that matter into motion, he established certain laws of motion, to which all moveable bodies must conform. And, to descend from the greatest operations to the smallest, when a workman forms a clock, or other piece of mechanism, he establishes at his own pleasure certain arbitrary laws for its direction; as, that the hand shall describe a given space in a given time; to which law as long as the work conforms, so long it continues in perfection, and answers the end of its formation.

If we farther advance, from mere inactive matter to vegetable and animal life, we shall find them still governed by laws; more numerous indeed, but equally fixed and invariable. The whole progress of plants, from the seed to the root, and from thence to the seed again; the method of animal nutrition, digestion, secretion, and all other branches of vital economy;—are not left to chance, or the will of the creature itself, but are performed in a wondrous involuntary manner, and guided by unerring rules laid down by the great Creator.

This then is the general signification of law, a rule of action dictated by some superior being: and, in those creatures that have neither the power to think nor to will, such laws must be invariably obeyed, so long as the creature itself subsists; for its existence depends on that obedience. But laws, in their more confined sense, and in which it is our present business to consider them, denote the rules, not of action in general, but of *human* action or conduct: that is, the precepts by which man, the noblest of all sublunary beings, a creature endowed with both reason and free-will, is commanded to make use of those faculties in the general regulation of his behaviour.

Man, considered as a creature, must necessarily be subject to the laws of his Creator, for he is entirely a dependent being. A being, independent of any other, has no rule to pursue but such as he prescribes to himself: but a state of dependance will inevitably oblige the inferior to take the will of him on whom he depends as the rule of his conduct; not indeed in every particular, but in all those points wherein his dependance consists. This principle therefore has more or less extent and effect, in proportion as the superiority of the one and the dependance of the other is greater or less, absolute or limited. And consequently, as man

depends absolutely upon his Maker for every thing, it is necessary that he should in all points conform to his Maker's will.

This will of his Maker is called the *law of nature*. For as God, when he created matter, and endued it with a principle of mobility, established certain rules for the perpetual direction of that motion; so, when he created man, and endued him with freewill to conduct himself in all parts of life, he laid down certain immutable laws of human nature, whereby that free-will is in some degree regulated and restrained, and gave him also the faculty of reason to discover the purport of those laws.

Considering the Creator only as a being of infinite power, he was able unquestionably to have prescribed whatever laws he pleased to his creature man, however unjust or severe. But as he is also a Being of infinite wisdom, he has laid down only such laws as were founded in those relations of justice that existed in the nature of things antecedent to any positive precept. These are the eternal immutable laws of good and evil, to which the Creator himself in all his dispensations conforms; and which he has enabled human reason to discover, so far as they are necessary for the conduct of human actions. Such, among others, are these principles: That we should live honestly, should hurt nobody, and should render to every one his due; to which three general precepts Justinian has reduced the whole doctrine of law.

But if the discovery of these first principles of the law of nature depended only upon the due exertion of right reason, and could not otherwise be obtained than by a chain of metaphysical disquisitions, mankind would have wanted some inducement to have quickened their inquiries, and the greater part of the world would have rested content in mental indolence, and ignorance its inseparable companion. As therefore the Creator is a being, not only of infinite power and wisdom, but also of infinite goodness, he has been pleased so to contrive the constitution and frame of humanity, that we should want no other prompter to inquire after and pursue the rule of right, but only our own self-love, that universal principle of action. For he has so intimately connected, so inseparably interwoven, the laws of eternal justice with the happiness of each individual, that the latter cannot be attained but by observing the former; and if the former be punctually obeyed, it cannot but induce the latter. In consequence of which mutual connection of justice and human felicity, he has not perplexed the law of nature with a multitude of abstracted rules and precepts, referring merely to the fitness or unfitness of things, as some have vainly surmised; but has graciously reduced the rule of obedience to this one paternal precept, "that man should pursue his own happiness." This is the foundation of what we call *ethics*, or *natural law* *. For the several articles into which it is branched in our systems, amount to no more than demonstrating, that this or that action

Of Laws
in general.Law of
nature.

Particular.

* See *Morality*.

Of Laws
in general.

action tends to man's real happiness; and therefore very justly concluding, that the performance of it is a part of the law of nature; or, on the other hand, that this or that action is destructive of man's real happiness, and therefore that the law of nature forbids it.

This law of nature, being coeval with mankind, and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times: no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original.

But in order to apply this to the particular exigencies of each individual, it is still necessary to have recourse to reason: whose office it is to discover, as was before observed, what the law of nature directs in every circumstance of life; by considering, what method will tend the most effectually to our own substantial happiness. And if our reason were always, as in our first ancestor before his transgression, clear and perfect, unruffled by passions, unclouded by prejudice, unimpaired by disease or intemperance, the task would be pleasant and easy; we should need no other guide but this. But every man now finds the contrary in his own experience; that his reason is corrupt, and his understanding full of ignorance and error.

4
Law of re-
velation.

This has given manifold occasion for the benign interposition of Divine Providence; which, in compassion to the frailty, the imperfection, and the blindness of human reason, hath been pleased, at sundry times and in divers manners, to discover and enforce its laws by an immediate and direct revelation. The doctrines thus delivered, we call the *revealed* or *divine law*, and they are to be found only in the Holy Scriptures. These precepts, when revealed, are found upon comparison to be really a part of the original law of nature, as they tend in all their consequences to man's felicity. But we are not from thence to conclude, that the knowledge of these truths was attainable by reason in its present corrupted state; since we find, that, until they were revealed, they were hid from the wisdom of ages. As then the moral precepts of this law are indeed of the same original with those of the law of nature, so their intrinsic obligation is of equal strength and perpetuity. Yet undoubtedly the revealed law is of infinitely more authenticity than that moral system which is framed by ethical writers, and denominated the *natural law*: because one is the law of nature, expressly declared so to be by God himself; the other is only what, by the assistance of human reason, we imagine to be that law. If we could be as certain of the latter as we are of the former, both would have an equal authority: but till then they can never be put in any competition together.

Upon these two foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human laws should be suffered to contradict these. There are, it is true, a great number of indifferent points, in which both the divine law and the natural leave a man at his own liberty; but which are found necessary, for the benefit of society, to be restrained within certain limits. And herein it is that human laws have their greatest force and efficacy: for, with regard to such points as are not indifferent, human laws are only declaratory of, and act in subordination to,

the former. To instance in the case of murder: this is expressly forbidden by the divine, and demonstrably by the natural, law; and from these prohibitions arises the true unlawfulness of this crime. Those human laws that annex a punishment to it, do not at all increase its moral guilt, or superadd any fresh obligation in *foro conscientie* to abstain from its perpetration. Nay, if any human law should allow or enjoin us to commit it, we are bound to transgress that human law, or else we must offend both the natural and the divine. But with regard to matters that are in themselves indifferent, and are not commanded or forbidden by those superior laws; such, for instance, as exporting of wool into foreign countries; here the inferior legislature has scope and opportunity to interpose, and to make that action unlawful which before was not so.

If man were to live in a state of nature, unconnected with other individuals, there would be no occasion for any other laws than the law of nature and the law of God. Neither could any other law possibly exist: for a law always supposes some superior who is to make it; and in a state of nature we are all equal, without any other superior but him who is the Author of our being. But man was formed for society; and, as is demonstrated by the writers on this subject, is neither capable of living alone, nor indeed has the courage to do it. However, as it is impossible for the whole race of mankind to be united in one great society, they must necessarily divide into many; and form separate states, commonwealths, and nations, entirely independent of each other, and yet liable to a mutual intercourse. Hence arises a third kind of law to regulate this mutual intercourse, called the *law of nations*: which, as none of these states will acknowledge a superiority in the other, cannot be dictated by either; but depends entirely upon the rules of natural law, or upon mutual compacts, treaties, leagues, and agreements, between these several communities: in the construction also of which compacts we have no other rule to resort to but the law of nature; being the only one to which both communities are equally subject: and therefore the civil law very justly observes, that *quod naturalis ratio inter omnes homines constituit, vocatur jus gentium*.

5
Law of
nations.

To the consideration, then, of the law of nature, the revealed law, and the law of nations, succeeds or civil law. that of the municipal or civil law; that is, the rule by which particular districts, communities, or nations, are governed; being thus defined by Justinian, "*jus civile est quod quisque sibi populus constituit*." We call it *municipal law*, in compliance with common speech; for though, strictly, that expression denotes the particular customs of one single *municipium* or free town, yet it may with sufficient propriety be applied to any one state or nation which is governed by the same laws and customs.

Municipal law, thus understood, is properly defined Defined. to be "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right, and prohibiting what is wrong." Let us endeavour to explain its several properties, as they arise out of this definition.

And, first, it is a *rule*: not a transient sudden order from a superior to or concerning a particular person; but something permanent, uniform, and universal. Therefore a particular act of the legislature to confiscate

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Of Laws
in general.

cate the goods of Titius, or to attain him of high treason, does not enter into the idea of a municipal law: for the operation of this act is spent upon Titius only, and has no relation to the community in general; it is rather a sentence than a law. But an act to declare that the crime of which Titius is accused shall be deemed high treason; this has permanency, uniformity, and universality, and therefore is properly a rule. It is also called a rule, to distinguish it from *advice* or *counsel*, which we are at liberty to follow or not as we see proper, and to judge upon the reasonableness or unreasonableness of the thing advised: whereas our obedience to the law depends not upon our approbation, but upon the *Maker's will*. Counsel is only matter of persuasion, law is matter of injunction; counsel acts only upon the willing, law upon the unwilling also.

It is also called a rule, to distinguish it from a compact or agreement; for a compact is a promise proceeding from us, law is a command directed to us. The language of a compact is, "I will, or will not, do this;" that of a law is, "Thou shalt, or shalt not, do it." It is true there is an obligation which a compact carries with it, equal in point of conscience to that of a law; but then the original of the obligation is different. In compacts, we ourselves determine and promise what shall be done, before we are obliged to do it; in laws, we are obliged to act without ourselves determining or promising any thing at all. Upon these accounts law is defined to be "a rule."

9
Second property.

Municipal law is also "a rule of civil conduct." This distinguishes municipal law from the natural or revealed: the former of which is the rule of moral conduct; and the latter not only the rule of moral conduct, but also of faith. These regard man as a creature; and point out his duty to God, to himself, and to his neighbour, considered in the light of an individual. But municipal or civil law regards him also as a citizen, and bound to other duties towards his neighbour, than those of mere nature and religion: duties, which he has engaged in by enjoying the benefits of the common union; and which amount to no more, than that he do contribute, on his part, to the subsistence and peace of the society.

10
Third property.

It is likewise "a rule prescribed." Because a bare resolution, confined in the breast of the legislator, without manifesting itself by some external sign, can never be properly a law. It is requisite that this resolution be notified to the people who are to obey it. But the manner in which this notification is to be made, is matter of very great indifference. It may be notified by universal tradition and long practice, which supposes a previous publication, and is the case of the common law of England and of Scotland. It may be notified *viva voce*, by officers appointed for that purpose; as is done with regard to proclamations, and such acts of parliament as are appointed to be publicly read in churches and other assemblies. It may, lastly, be notified by writing, printing, or the like; which is the general course taken with all our acts of parliament. Yet, whatever way is made use of, it is incumbent on the promulgators to do it in the most public and perspicuous manner; not like Caligula, who (according to Dio Cassius) wrote his laws in a very small character, and hung them up upon high pillars, the more

effectually to ensnare the people. There is still a more unreasonable method than this, which is called making of laws *ex post facto*; when after an action (indifferent in itself) is committed, the legislator then for the first time declares it to have been a crime, and inflicts a punishment upon the person who has committed it. Here it is impossible that the party could foresee, that an action, innocent when it was done, should be afterwards converted to guilt by a subsequent law: he had therefore no cause to abstain from it; and all punishment for not abstaining must of consequence be cruel and unjust. All laws should be therefore made to commence *in futuro*, and be notified before their commencement; which is implied in the term "prescribed." But when this rule is in the usual manner notified or prescribed, it is then the subject's business to be thoroughly acquainted therewith; for if ignorance, of what he might know, were admitted as a legitimate excuse, the laws would be of no effect, but might always be eluded with impunity.

But further: Municipal law is "a rule of civil conduct prescribed by the supreme power in a state." For legislature, as was before observed, is the greatest act of superiority that can be exercised by one being over another. Wherefore it is requisite to the very essence of a law, that it be made by the supreme power. Sovereignty and legislature are indeed convertible terms; one cannot subsist without the other.

This will naturally lead us into a short inquiry concerning the nature of society and civil government; and the natural inherent right that belongs to the sovereignty of a state, wherever that sovereignty be lodged, of making and enforcing laws.

The only true and natural foundations of society are the wants and fears of individuals. Not that we can believe, with some theoretical writers, that there ever was a time when there was no such thing as society; and that, from the impulse of reason, and through a sense of their wants and weaknesses, individuals met together in a large plain, entered into an original contract, and chose the tallest man present to be their governor. This notion, of an actually existing unconnected state of nature, is too wild to be seriously admitted: and besides, it is plainly contradictory to the revealed accounts of the primitive origin of mankind, and their preservation 2000 years afterwards; both which were effected by the means of single families. These formed the first society among themselves, which every day extended its limits; and when it grew too large to subsist with convenience in that pastoral state wherein the patriarchs appear to have lived, it necessarily subdivided itself by various migrations into more. Afterwards, as agriculture increased, which employs and can maintain a much greater number of hands, migrations became less frequent; and various tribes, which had formerly separated, reunited again; sometimes by compulsion and conquest, sometimes by accident, and sometimes perhaps by compact. But though society had not its formal beginning from any convention of individuals, actuated by their wants and their fears; yet it is the sense of their weakness and imperfection that keeps mankind together; that demonstrates the necessity of this union; and that therefore is the solid and natural foundation, as well as the cement, of society. And this is what we mean by the original

Of Laws
in general.11
Fourth property.12
Civil society.

Of Laws
in general.

original contract of society; which, though perhaps in no instance it has ever been formally expressed at the first institution of a state, yet in nature and reason must always be understood and implied in the very act of associating together: namely, that the whole should protect all its parts, and that every part should pay obedience to the will of the whole; or, in other words, that the community should guard the rights of each individual member, and that (in return for this protection) each individual should submit to the laws of the community; without which submission of all, it was impossible that protection could be certainly extended to any.

13
Government.

For when society is once formed, government results of course, as necessary to preserve and to keep that society in order. Unless some superior be constituted, whose commands and decisions all the members are bound to obey, they would still remain as in a state of nature, without any judge upon earth to define their several rights, and redress their several wrongs. But as all the members of society are naturally equal, it may be asked, In whose hands are the reins of government to be entrusted? To this the general answer is easy; but the application of it to particular cases has occasioned one half of those mischiefs which are apt to proceed from misguided political zeal. In general, all mankind will agree, that government should be reposed in such persons, in whom those qualities are most likely to be found, the perfection of which is among the attributes of him who is emphatically styled the *Supreme Being*; the three grand requisites, namely, of wisdom, of goodness, and of power: wisdom, to discern the real interest of the community; goodness, to endeavour always to pursue that real interest; and strength or power to carry this knowledge and intention into action. These are the natural foundations of sovereignty, and these are the requisites that ought to be found in every well constituted frame of government.

How the several forms of government we now see in the world at first actually began, is matter of great uncertainty, and has occasioned infinite disputes. It is not our business or intention to enter into any of them. However they began, or by what right soever they subsist, there is and must be in all of them a supreme, irresistible, absolute, uncontrolled authority, in which the *jura summi imperii*, or the rights of sovereignty, reside. And this authority is placed in those hands, wherein (according to the opinion of the founders of such respective states, either expressly given or collected from their tacit approbation) the qualities requisite for supremacy, wisdom, goodness, and power, are the most likely to be found.

14
Different
forms
thereof.

The political writers of antiquity will not allow more than three regular forms of government: the first, when the sovereign power is lodged in an aggregate assembly consisting of all the members of a community which is called a *democracy*; the second, when it is lodged in a council composed of select members, and then it is styled an *aristocracy*; the last, when it is entrusted in the hands of a single person, and then it takes the name of a *monarchy*. All other species of government, they say, are either corruptions of, or reducible to, these three.

By the sovereign power, as was before observed, is
No 176.

meant the making of laws; for wherever that power resides, all others must conform to and be directed by it, whatever appearance the outward form and administration of the government may put on. For it is at any time in the option of the legislature to alter that form and administration by a new edict or rule, and to put the execution of the laws into whatever hands it pleases: and all the other powers of the state must obey the legislative power in the execution of their several functions, or else the constitution is at an end.

In a democracy, where the right of making laws resides in the people at large, public virtue or goodness of intention is more likely to be found than either of the other qualities of government. Popular assemblies are frequently foolish in their contrivance, and weak in their execution; but generally mean to do the thing that is right and just, and have always a degree of patriotism or public spirit. In aristocracies there is more wisdom to be found than in the other forms of government; being composed, or intended to be composed, of the most experienced citizens: but there is less honesty than in a republic, and less strength than in a monarchy. A monarchy is indeed the most powerful of any, all the sinews of government being knit and united together in the hand of the prince; but then there is imminent danger of his employing that strength to improvident or oppressive purposes.

Thus these three species of government have all of them their several perfections and imperfections. Democracies are usually the best calculated to direct the end of a law; aristocracies, to invent the means by which that end shall be obtained; and monarchies, to carry those means into execution. And the ancients, as was observed, had in general no idea of any other permanent form of government but these three: for though Cicero declares himself of opinion, "*esse optime constitutam rempublicam, quæ ex tribus generibus illis, regali, optimo, et populari, sit modice confusa*;" yet Tacitus treats this notion of a mixed government, formed out of them all, and partaking of the advantages of each, as a visionary whim, and one that, if effected, could never be lasting or secure.

But, happily for us of this island, the British constitution has long remained, and we trust will long continue, a standing exception to the truth of this observation. For, as with us the executive power of the laws is lodged in a single person, they have all the advantages of strength and dispatch that are to be found in the most absolute monarchy: and, as the legislature of the kingdom is entrusted to three distinct powers, entirely independent of each other; first, the king; secondly, the lords spiritual and temporal, which is an aristocratical assembly of persons selected for their piety, their birth, their wisdom, their valour, or their property; and, thirdly, the house of commons, freely chosen by the people from among themselves, which makes it a kind of democracy; as this aggregate body, actuated by different springs and attentive to different interests, composes the British parliament, and has the supreme disposal of every thing, there can no inconvenience be attempted by either of the three branches, but will be withstood by one of the other two, each branch being armed with a negative power sufficient to repel any innovation which it shall think inexpedient or dangerous.

Of Laws
in general.15
British con-
stitution.

Here,

Of Laws
in general.

Of Laws
in general.

Here, then, is lodged the sovereignty of the British constitution; and lodged as beneficially as is possible for society. For in no other shape could we be so certain of finding the three great qualities of government so well and so happily united. If the supreme power were lodged in any one of the three branches separately, we must be exposed to the inconveniences of either absolute monarchy, aristocracy, or democracy; and so want two of the three principal ingredients of good polity, either virtue, wisdom, or power. If it were lodged in any two of the branches; for instance, in the king and house of lords; our laws might be providently made and well executed, but they might not always have the good of the people in view: if lodged in the king and commons, we should want that circumspection and mediatory caution, which the wisdom of the peers is to afford: if the supreme rights of legislature were lodged in the two houses only, and the king had no negative upon their proceedings, they might be tempted to encroach upon the royal prerogative, or perhaps to abolish the kingly office, and thereby weaken (if not totally destroy) the strength of the executive power. But the constitutional government of this island is so admirably tempered and compounded, that nothing can endanger or hurt it, but destroying the equilibrium of power between one branch of the legislature and the rest. For if ever it should happen, that the independence of any one of the three should be lost, or that it should become subservient to the views of either of the other two, there would soon be an end of our constitution. The legislature would be changed from that which was originally set up by the general consent and fundamental act of the society: and such a change, however effected, is, according to Mr Locke (who perhaps carries his theory too far), at once an entire dissolution of the bands of government; and the people are thereby reduced to a state of anarchy, with liberty to constitute to themselves a new legislative power.

16

Having thus cursorily considered the three usual species of government, and our own singular constitution selected and compounded from them all, we proceed to observe, that, as the power of making laws constitutes the supreme authority, so wherever the supreme authority in any state resides, it is the right of that authority to make laws; that is, in the words of our definition, *to prescribe the rule of civil action*. And this may be discovered from the very end and institution of civil states. For a state is a collective body, composed of a multitude of individuals, united for their safety and convenience, and intending to act together as one man. If it therefore is to act as one man, it ought to act by one uniform will. But, inasmuch as political communities are made up of many natural persons, each of whom has his particular will and inclination, these several wills cannot by any natural union be joined together, or tempered and disposed into a lasting harmony, so as to constitute and produce that one uniform will of the whole. It can therefore be no otherwise produced than by a political union; by the consent of all persons to submit their own private wills to the will of one man, or of one or more assemblies of men, to whom the supreme authority is entrusted; and this will of that one man, or assemblage of men, is in

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different states, according to their different constitutions, understood to be law.

Thus far as to the right of the supreme power to make laws: but farther, it is its duty likewise. For since the respective members are bound to conform themselves to the will of the state, it is expedient that they receive directions from the state declaratory of that its will. But as it is impossible, in so great a multitude, to give injunctions to every particular man, relative to each particular action, therefore the state establishes general rules, for the perpetual information and direction of all persons in all points, whether of positive or negative duty: and this, in order that every man may know what to look upon as his own, what as another's; what absolute and what relative duties are required at his hands; what is to be esteemed honest, dishonest, or indifferent; what degree every man retains of his natural liberty, and what he has given up as the price of the benefits of society; and after what manner each person is to moderate the use and exercise of those rights which the state assigns him, in order to promote and secure the public tranquillity.

From what has been advanced, the truth of the former branch of our definition is (we trust) sufficiently evident; that "municipal law is a rule of civil conduct, prescribed by the supreme power in a state." We proceed now to the latter branch of it; that it is a rule so prescribed, "commanding what is right, and prohibiting what is wrong."

17
Second
branch of
the defini-
tion, illu-
strated.

Now, in order to do this completely, it is first of all necessary that the boundaries of right and wrong be established and ascertained by law. And when this is once done, it will follow of course, that it is likewise the business of the law, considered as a rule of civil conduct, to enforce these rights, and to restrain or redress these wrongs. It remains therefore only to consider, in what manner the law is said to ascertain the boundaries of right and wrong; and the methods which it takes to command the one and prohibit the other.

For this purpose, every law may be said to consist of several parts: one, declaratory; whereby the rights to be observed, and the wrongs to be eschewed, are clearly defined and laid down: another, directory; whereby the subject is instructed and enjoined to observe those rights, and to abstain from the commission of those wrongs: a third, remedial; whereby a method is pointed out to recover a man's private rights, or redress his private wrongs: to which may be added a fourth, usually termed the *sanction* or *vindictory* branch of the law; whereby it is signified what evil or penalty shall be incurred by such as commit any public wrongs, and transgress or neglect their duty.

With regard to the first of these, the *declaratory* part of the municipal law; this depends not so much upon the law of revelation or of nature, as upon the wisdom and will of the legislator. This doctrine, which before was slightly touched, deserves a more particular explication. Those rights, then, which God and nature have established, and are therefore called *natural rights*, such as are life and liberty, need not the aid of human laws to be more effectually invested in every man than they are; neither do they receive any additional strength

18
Declara-
tory part of
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Of Laws
in general.

when declared by the municipal laws to be inviolable. On the contrary, no human legislature has power to abridge or destroy them, unless the owner shall himself commit some act that amounts to a forfeiture. Neither do divine or natural *duties* (such as, for instance, the worship of God, the maintenance of children, and the like) receive any stronger sanction from being also declared to be duties by the law of the land. The case is the same as to crimes and misdemeanours, that are forbidden by the superior laws, and therefore styled *mala in se*, such as murder, theft, and perjury; which contract no additional turpitude from being declared unlawful by the inferior legislature. For that legislature in all these cases acts only, as was before observed, in subordination to the Great Lawgiver, transcribing and publishing his precepts. So that, upon the whole, the declaratory part of the municipal law has no force or operation at all, with regard to actions that are naturally and intrinsically right or wrong.

But with regard to things in themselves indifferent, the case is entirely altered. These become either right or wrong, just or unjust, duties or misdemeanours, according as the municipal legislator sees proper, for promoting the welfare of the society, and more effectually carrying on the purposes of civil life. Thus our own common law has declared, that the goods of the wife do instantly upon marriage become the property and right of the husband; and our statute law has declared all monopolies a public offence: yet that right, and this offence, have no foundation in nature; but are merely created by the law, for the purposes of civil society. And sometimes, where the thing itself has its rise from the law of nature, the particular circumstances and mode of doing it become right or wrong, as the laws of the land shall direct. Thus, for instance, in civil duties; obedience to superiors is the doctrine of revealed as well as natural religion: but who those superiors shall be, and in what circumstances, or to what degrees they shall be obeyed, is the province of human laws to determine. And so, as to injuries or crimes, it must be left to our own legislature to decide, in what cases the seizing another's cattle shall amount to the crime of robbery; and where it shall be a justifiable action, as when a landlord takes them by way of distress for rent.

19
Directory
part.

Thus much for the declaratory part of the municipal law: and the *directory* stands much upon the same footing; for this virtually includes the former, the declaration being usually collected from the direction. The law that says, "Thou shalt not steal," implies a declaration that stealing is a crime. And we have seen, that, in things naturally indifferent, the very essence of right and wrong depends upon the direction of the laws to do or to omit them.

20
Remedial
part.

The *remedial* part of a law is so necessary a consequence of the former two, that laws must be very vague and imperfect without it. For in vain would rights be declared, in vain directed to be observed, if there were no method of recovering and asserting those rights when wrongfully withheld or invaded. This is what we mean properly, when we speak of the protection of the law. When, for instance, the declaratory part of the law has said, "that the field or inheritance which belonged to Titius's father is vested by his

death in Titius," and the directory part has "forbid- den any one to enter on another's property without the leave of the owner;" if Gaius after this will presume to take possession of the land, the remedial part of the law will then interpose its office; will make Gaius restore the possession to Titius, and also pay him damages for the invasion.

With regard to the sanction of laws, or the evil that may attend the breach of public duties; it is observed, that human legislators have for the most part chosen to make the sanction of their laws rather vindictory than remuneratory, or to consist rather in punishments than in actual particular rewards: Because, in the first place, the quiet enjoyment and protection of all our civil rights and liberties, which are the sure and general consequence of obedience to the municipal law, are in themselves the best and most valuable of all rewards: because also, were the exercise of every virtue to be enforced by the proposal of particular rewards, it were impossible for any state to furnish stock enough for so profuse a bounty: and farther, because the dread of evil is a much more forcible principle of human actions than the prospect of good. For which reasons, though a prudent bestowing of rewards is sometimes of exquisite use, yet we find that those civil laws, which enforce and enjoin our duty, do seldom, if ever, propose any privilege or gift to such as obey the law; but do constantly come armed with a penalty denounced against transgressors, either expressly defining the nature and quantity of the punishment, or else leaving it to the discretion of the judges, and those who are intrusted with the care of putting the laws in execution.

Of all the parts of a law the most effectual is the *vindictory*. For it is but lost labour to say, "Do this, or avoid that," unless we also declare, "This shall be the consequence of your non-compliance." We must therefore observe, that the main strength and force of a law consists in the penalty annexed to it. Herein is to be found the principal obligation of human laws.

21
Vindica-
tory part.

Legislators and their laws are said to *compel* and *oblige*: not that, by any natural violence, they so constrain a man as to render it impossible for him to act otherwise than as they direct, which is the strict sense of obligation; but because, by declaring and exhibiting a penalty against offenders, they bring it to pass that no man can easily choose to transgress the law; since, by reason of the impending correction, compliance is in a high degree preferable to disobedience. And, even where rewards are proposed as well as punishments threatened, the obligation of the law seems chiefly to consist in the penalty: for rewards, in their nature, can only persuade and allure; nothing is compulsory but punishment.

It is true, it hath been holden, and very justly, by the principal of our ethical writers, that human laws are binding upon mens consciences. But if that were the only or most forcible obligation, the good only would regard the laws, and the bad would set them at defiance. And, true as this principle is, it must still be understood with some restriction. It holds, we apprehend, as to *rights*; and that, when the law has determined the field to belong to Titius, it is a matter of conscience no longer to withhold or to invade it. So also in regard to *natural duties*, and such offences as are

Of Laws in general. *mala in se*: here we are bound in conscience, because we are bound by superior laws, before those human laws were in being, to perform the one and abstain from the other. But in relation to those laws which enjoin only positive duties, and forbid only such things as are not *mala in se*, but *mala prohibita* merely, without any intermixture of moral guilt, annexing a penalty to non-compliance; here seems to be conscience no farther concerned, than by directing a submission to the penalty, in case of our breach of those laws: for otherwise the multitude of penal laws in a state would not only be looked upon as an impolitic, but would also be a very wicked, thing; if every such law were a snare for the conscience of the subject. But in these cases the alternative is offered to every man; "either abstain from this, or submit to such a penalty:" and his conscience will be clear, whichever side of the alternative he thinks proper to embrace. Thus, by the statutes for preserving the game, a penalty is denounced against every unqualified person that kills a hare, and against every person who possesses a partridge in August. And so too, by other statutes, pecuniary penalties are inflicted for exercising trades without serving an apprenticeship thereto, for erecting cottages without annexing four acres of land to each, for not burying the dead in woollen, for not performing statute-work on the public roads, and for innumerable other positive misdemeanors. Now these prohibitory laws do not make the transgression a moral offence, or sin: the only obligation in conscience is to submit to the penalty, if levied. It must, however, be observed, that we are here speaking of laws that are simply and purely penal, where the thing forbidden or enjoined is wholly a matter of indifference, and where the penalty inflicted is an adequate compensation for the civil inconvenience supposed to arise from the offence. But where disobedience to the law involves in it also any degree of public mischief or private injury, there it falls within our former distinction, and is also an offence against conscience.

We have now gone through the definition laid down of a municipal law; and have shown that it is "a rule—of civil conduct—prescribed—by the supreme power in a state—commanding what is right, and prohibiting what is wrong:" in the explication of which we have endeavoured to interweave a few useful principles, concerning the nature of civil government, and the obligation of human laws. Before we conclude this part, it may not be amiss to add a few observations concerning the interpretation of laws.

22
Of the interpretation of laws.

When any doubt arose upon the construction of the Roman laws, the usage was to state the case to the emperor in writing, and take his opinion upon it. This was certainly a bad method of interpretation. To interrogate the legislature to decide particular disputes, is not only endless, but affords great room for partiality and oppression. The answers of the emperor were called his rescripts, and these had in succeeding cases the force of perpetual laws; though they ought to be carefully distinguished, by every rational civilian, from those general constitutions which had only the nature of things for their guide. The emperor Marcrinus, as his historian Capitolinus informs us, had once resolved to abolish these rescripts, and retain only the general edicts: he could not bear that the hasty

and crude answers of such princes as Commodus and Caracalla should be revered as laws. But Justinian thought otherwise, and he has preserved them all. In like manner the canon laws, or decretal epistles of the popes, are all of them rescripts in the strictest sense. Contrary to all true forms of reasoning, they argue from particulars to generals.

The fairest and most rational method to interpret the will of the legislator, is by exploring his intentions at the time when the law was made, by signs the most natural and probable. And these signs are either the words, the context, the subject-matter, the effects and consequence, or the spirit and reason of the law. Let us take a short view of them all.

1. *Words* are generally to be understood in their usual and most known signification; not so much regarding the propriety of grammar, as their general and popular use. Thus the law mentioned by Puffendorf, which forbade a layman to lay hands on a priest, was adjudged to extend to him who had hurt a priest with a weapon. Again: Terms of art, or technical terms, must be taken according to the acceptance of the learned in each art, trade, and science. So in the act of settlement, where the crown of England is limited "to the princess Sophia, and the heirs of her body being Protestants, it becomes necessary to call in the assistance of lawyers, to ascertain the precise idea of the words "heirs of her body;" which in a legal sense comprise only certain of her lineal descendants. Lastly, where words are clearly repugnant in two laws, the latter law takes place of the elder; *leges posteriores priores contrarias abrogant*, is a maxim of universal law, as well as of our own constitutions. And accordingly it was laid down by a law of the twelve tables at Rome, *Quod populus postremum jussit, id juratum esto*.

2. If words happen to be still dubious, we may establish their meaning from the *context*; with which it may be of singular use to compare a word or a sentence, whenever they are ambiguous, equivocal, or intricate. Thus the proëme, or preamble, is often called in to help the construction of an act of parliament. Of the same nature and use is the comparison of a law with other laws that are made by the same legislator, that have some affinity with the subject, or that expressly relate to the same point. Thus, when the law of England declares murder to be felony without benefit of clergy, we must resort to the same law of England to learn what the benefit of clergy is: and, when the common law censures simoniacal contracts, it affords great light to the subject to consider what the canon law has adjudged to be simony.

3. As to the *subject-matter*, words are always to be understood as having a regard thereto; for that is always supposed to be in the eye of the legislator, and all his expressions directed to that end. Thus, when a law of Edward III. forbids all ecclesiastical persons to purchase provisions at Rome, it might seem to prohibit the buying of grain and other victual; but when we consider that the statute was made to repress the usurpations of the papal see, and that the nominations to benefices by the Pope were called *provisions*, we shall see that the restraint is intended to be laid upon such provisions only.

4. As to the *effects and consequence*, the rule is,

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That

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Of Laws
in general.

That where words bear either none, or a very absurd signification, if literally understood, we must a little deviate from the received sense of them. Therefore the Bolognian law, mentioned by Puffendorf, which enacted "that whoever drew blood in the streets should be punished with the utmost severity," was held after long debate not to extend to the surgeon who opened the vein of a person that fell down in the street with a fit.

27

5. But, lastly, the most universal and effectual way of discovering the true meaning of a law, when the words are dubious, is by considering the *reason* and *spirit* of it, or the cause which moved the legislator to enact it. For when this reason ceases, the law itself ought likewise to cease with it. An instance of this is given in a case put by Cicero, or whoever was the author of the rhetorical treatise inscribed to Herennius. There was a law, That those who in a storm forsook the ship should forfeit all property therein, and the ship and lading should belong entirely to those who staid in it. In a dangerous tempest, all the mariners forsook the ship, except only one sick passenger, who by reason of his disease was unable to get out and escape. By chance the ship came safe to port. The sick man kept possession, and claimed the benefit of the law. Now here all the learned agree, that the sick man is not within the reason of the law; for the reason of making it was, to give encouragement to such as should venture their lives to save the vessel: but this is a merit which he could never pretend to, who neither staid in the ship upon that account, nor contributed any thing to its preservation.

[28] 34
Equity.

From this method of interpreting laws by the reason of them, arises what we call *equity*: which is thus defined by Grotius, "the correction of that, wherein the law (by reason of its universality) is deficient." For since in laws all cases cannot be foreseen or expressed, it is necessary, that, when the general decrees of

the law come to be applied to particular cases, there should be somewhere a power vested of defining those circumstances, which (had they been foreseen) the legislator himself would have expressed. And these are the cases which, according to Grotius, "*lex non exakte definit, sed arbitrio boni viri permittit.*"

Equity thus depending, essentially, upon the particular circumstances of each individual case, there can be no established rules and fixed precepts of equity laid down, without destroying its very essence, and reducing it to a positive law. And, on the other hand, the liberty of considering all cases in an equitable light must not be indulged too far; lest thereby we destroy all law, and leave the decision of every question entirely in the breast of the judge. And law, without equity, though hard and disagreeable, is much more desirable for the public good, than equity without law; which would make every judge a legislator, and introduce most infinite confusion: as there would then be almost as many different rules of action laid down in our courts, as there are differences of capacity and sentiment in the human mind.

HAVING thus considered the nature of laws in general, we shall proceed to give a view of the particular law of our own country; 1. Of England; 2. Of Scotland. The English law, however, being too extensive to admit of detail in a body, we can only here give such a sketch of it as may be sufficient to show the connection of its parts; but the principal of these parts themselves are explained at large, under their proper names, in the general alphabet.—A contrary method is followed with regard to the law of Scotland. This being less extensive, is given in a body, with all its parts not only in regular connection, but sufficiently explained; these parts, again, not being explained in the order of the alphabet, but marked with numerical references to their explanations in the system.

35.
Plan of the
two follow-
ing parts.

PART II. THE LAW OF ENGLAND.

INTRODUCTION.

THE municipal law of England, or the rule of civil conduct prescribed to the inhabitants of that kingdom, may with sufficient propriety be divided into two kinds: the *lex non scripta*, the unwritten or common law; and the *lex scripta*, the written or statute law.

36
Common
law.

The *lex non scripta*, or unwritten law, includes not only general customs, or the common law properly so called; but also the particular customs of certain parts of the kingdom, and likewise these particular laws that are by custom observed only in certain courts and jurisdictions.

In calling these parts of the law *leges non scriptae*, we would not be understood as if all those laws were at present merely oral, or communicated from the former ages to the present solely by word of mouth. It is true indeed, that in the profound ignorance of letters which formerly overspread the whole western world, all laws were entirely traditional; for this plain reason, that the nations among which they prevailed had but little idea of writing. Thus the British as well as the

Gallic druids committed all their laws as well as learning to memory; and it is said of the primitive Saxons here, as well as their brethren on the continent, that *leges sola memoria et usu retinebant*. But, with us at present, the monuments and evidences of our legal customs are contained in the records of the several courts of justice, in books of reports and judicial decisions, and in the treatises of learned sages of the profession, preserved and handed down to us from the times of highest antiquity. However, we therefore style these parts of our law *leges non scriptae*, because their original institution and authority are not set down in writing, as acts of parliament are; but they receive their binding power, and the force of laws, by long and immemorial usage, and by their universal reception throughout the kingdom: in like manner as Aulus Gellius defines the *jus non scriptum* to be that which is *tacito et illiterato hominum consensu et moribus expressum*.

Our ancient lawyers, and particularly Fortescue, insist with abundance of warmth, that these customs are as old as the primitive Britons, and continued down through the several mutations of government and inhabitants.

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habitants, to the present time, unchanged and unadulterated. This may be the case as to some. But in general, as Mr Selden in his notes observes, this assertion must be understood with many grains of allowance; and ought only to signify, as the truth seems to be, that there never was any formal exchange of one system of laws for another: though doubtless, by the intermixture of adventitious nations, the Romans, the Picts, the Saxons, the Danes, and the Normans, they must have insensibly introduced and incorporated many of their own customs with those that were before established; thereby, in all probability, improving the texture and wisdom of the whole, by the accumulated wisdom of divers particular countries. Our laws, saith lord Bacon, are mixed as our language; and as our language is so much the richer, the laws are the more complete.

And indeed our antiquarians and first historians do all positively assure us, that our body of laws is of this compounded nature. For they tell us, that in the time of Alfred the local customs of the several provinces of the kingdom were grown so various, that he found it expedient to compile his dome-book, or *liber judicialis*, for the general use of the whole kingdom. This book is said to have been extant so late as the reign of Edward IV. but is now unfortunately lost. It contained, we may probably suppose, the principal maxims of the common law, the penalties for misdemeanors, and the forms of judicial proceedings. Thus much may at least be collected from that injunction to observe it, which we find in the laws of king Edward the elder, the son of Alfred. *Omnibus qui reipublice præsunt etiam atque etiam mando, ut omnibus equos se præbeant iudices, perinde ac in judiciali libro scriptum habetur: nec quicumquam formident quin jus commune audacter libereque dicant.*

But the irruption and establishment of the Danes in England, which followed soon after, introduced new customs, and caused this code of Alfred in many provinces to fall into disuse, or at least to be mixed and debased with other laws of a coarser alloy. So that, about the beginning of the 11th century there were three principal systems of laws prevailing in different districts. 1. The *Mercen-Lage*, or Mercian laws, which were observed in many of the inland counties, and those bordering on the principality of Wales, the retreat of the ancient Britons; and therefore very probably intermixed with the British or Druidical customs. 2. The *West Saxon Lage*, or laws of the West Saxons, which obtained in the counties to the south and west of the island, from Kent to Devonshire. These were probably much the same with the laws of Alfred above-mentioned, being the municipal law of the far most considerable part of his dominions, and particularly including Berkshire, the seat of his peculiar residence. 3. The *Dane-Lage*, or Danish law, the very name of which speaks its original and composition. This was principally maintained in the rest of the midland counties, and also on the eastern coast, the part most exposed to the visits of that piratical people. As for the very northern provinces, they were at that time under a distinct government.

Out of these three laws, Roger Hoveden and Ranulphus Cestrensis informs us, king Edward the confessor extracted one uniform law, or digest of laws, to be observed throughout the whole kingdom; though

Hoveden and the author of an old manuscript chronicle assure us likewise, that this work was projected and begun by his grandfather king Edgar. And indeed a general digest of the same nature has been constantly found expedient, and therefore put in practice by other great nations, which were formed from an assemblage of little provinces, governed by peculiar customs. As in Portugal, under king Edward, about the beginning of the 15th century. In Spain, under Alonzo X. who about the year 1250 executed the plan of his father St Ferdinand, and collected all the provincial customs into one uniform law, in the celebrated code entitled *las partidas*. And in Sweden, about the same era, a universal body of common law was compiled out of the particular customs established by the laghman of every province, and entitled the *land's lagh*, being analogous to the common law of England.

Both these undertakings, of king Edgar and Edward the Confessor, seem to have been no more than a new edition, or fresh promulgation, of Alfred's code or dome-book, with such additions and improvements as the experience of a century and an half had suggested. For Alfred is generally styled by the same historians the *legum Anglicanarum conditor*, as Edward the confessor is the *restitutor*. These, however, are the laws which our histories so often mention under the name of the *laws of Edward the Confessor*; which our ancestors struggled so hardly to maintain, under the first princes of the Norman line; and which subsequent princes so frequently promised to keep and to restore, as the most popular act they could do, when pressed by foreign emergencies or domestic discontents. These are the laws, that so vigorously withstood the repeated attacks of the civil law; which established in the 12th century a new Roman empire over the most of the states on the continent: states that have lost, and perhaps upon that account, their political liberties; while the free constitution of England, perhaps upon the same account, has been rather improved than debased. These, in short, are the laws which gave rise and origin to that collection of maxims and customs which is now known by the name of the *common law*. A name either given to it, in contradistinction to other laws, as the statute law, the civil law, the law merchant, and the like; or, more probably, as a law common to all the realm, the *jus commune* or *folcright*, mentioned by king Edward the Elder, after the abolition of the several provincial customs and particular laws before mentioned.

But though this is the most likely foundation of this collection of maxims and customs; yet the maxims and customs, so collected, are of higher antiquity than memory or history can reach: nothing being more difficult than to ascertain the precise beginning and first spring of an ancient and long established custom. Whence it is, that in our law the goodness of a custom depends upon its having been used time out of mind; or, in the solemnity of our legal phrase, time whereof the memory of man runneth not to the contrary. This it is that gives it its weight and authority; and of this nature are the maxims and customs which compose the common law, or *lex non scripta*, of this kingdom.

This unwritten, or common law, is properly distinguishable into three kinds: 1. General customs; which are the universal rule of the whole kingdom, and

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and form the common law in its stricter and more usual signification. 2. Particular customs; which for the most part affect only the inhabitants of particular districts. 3. Certain particular laws; which by custom are adopted and used by some particular courts, of pretty general and extensive jurisdiction.

I. As to general customs, or the common law properly so called; this is that law, by which proceedings and determinations in the king's ordinary courts of justice are guided and directed. This, for the most part, settles the course in which lands descend by inheritance; the manner and form of acquiring and transferring property; the solemnities and obligation of contracts; the rules of expounding wills, deeds, and acts of parliament; the respective remedies of civil injuries; the several species of temporal offences, with the manner and degree of punishment, and an infinite number of minuter particulars, which diffuse themselves as extensively as the ordinary distribution of common justice requires. Thus, for example, that there shall be four superior courts of record, the chancery, the king's bench, the common pleas, and the exchequer;—that the eldest son alone is heir to his ancestor;—that property may be acquired and transferred by writing;—that a deed is of no validity unless sealed and delivered;—that wills shall be construed more favourably, and deeds more strictly;—that money lent upon bond is recoverable by action of debt;—that breaking the public peace is an offence, and punishable by fine and imprisonment:—all these are doctrines that are not set down in any written statute or ordinance; but depend merely upon immemorial usage, that is, upon common law, for their support.

Some have divided the common law into two principal grounds or foundations: 1. Established customs; such as that, where there are three brothers, the eldest brother shall be heir to the second, in exclusion of the youngest: and, 2. Established rules and maxims; as, “that the king can do no wrong, that no man shall be bound to accuse himself,” and the like. But these seem to be one and the same thing. For the authority of these maxims rests entirely upon general reception and usage; and the only method of proving that this or that maxim is a rule of the common law, is by showing that it hath been always the custom to observe it.

But here a very natural, and very material, question arises: How are these customs or maxims to be known, and by whom is their validity to be determined? The answer is, By the judges in the several courts of justice. They are the depository of the laws; the living oracles who must decide in all cases of doubt, and who are bound by an oath to decide according to the law of the land. Their knowledge of that law is derived from experience and study; from the *viginti annorum lucubrations*, which Fortescue mentions; and from being long personally accustomed to the judicial decisions of their predecessors. And indeed these judicial decisions are the principal and most authoritative evidence, that can be given, of the existence of such a custom as shall form a part of the common law. The judgment itself, and all the proceedings previous thereto, are carefully registered and preserved under the name of *records*, in public repositories set apart for that particular purpose; and to them frequent recourse is had, when any critical question arises, in the determination of which for-

mer precedents may give light or assistance. And therefore, even so early as the conquest, we find the *præteritorum memoria eventorum* reckoned up as one of the chief qualifications of those who were held to be *legibus patriæ optime instituti*. For it is an established rule, To abide by former precedents, where the same points come again in litigation: as well to keep the scale of justice even and steady, and not liable to waver with every new judge's opinion; as also because the law in that case being solemnly declared and determined, what before was uncertain, and perhaps indifferent, is now become a permanent rule, which it is not in the breast of any subsequent judge to alter or vary from according to his private sentiments: he being sworn to determine, not according to his own private judgment, but according to the known laws and customs of the land; not delegated to pronounce a new law, but to maintain and expound the old one. Yet this rule admits of exception, where the former determination is most evidently contrary to reason; much more if it be contrary to the divine law. But, even in such cases, the subsequent judges do not pretend to make a new law, but to vindicate the old one from misrepresentation. For if it be found that the former decision is manifestly absurd or unjust, it is declared, not that such a sentence was bad law, but that it was not law; that is, that it is not the established custom of the realm, as has been erroneously determined. And hence it is that our lawyers are with justice so copious in their encomiums on the reason of the common law; that they tell us, that the law is the perfection of reason, that it always intends to conform thereto, and that what is not reason is not law. Not that the particular reason of every rule in the law can at this distance of time be always precisely assigned; but it is sufficient that there be nothing in the rule flatly contradictory to reason, and then the law will presume it to be well founded. And it hath been an ancient observation in the laws of England, that whenever a standing rule of law, of which the reason perhaps could not be remembered or discerned, hath been wantonly broke in upon by statutes or new resolutions, the wisdom of the rule hath in the end appeared from the inconveniences that have followed the innovation.

The doctrine of the law then is this: That precedents and rules must be followed, unless flatly absurd or unjust: for though their reason be not obvious at first view, yet we owe such a deference to former times, as not to suppose they acted wholly without consideration. To illustrate this doctrine by examples. It has been determined, time out of mind, that a brother of the half blood shall never succeed as heir to the estate of his half brother, but it shall rather escheat to the king, or other superior lord. Now this is a positive law, fixed and established by custom; which custom is evidenced by judicial decisions; and therefore can never be departed from by any modern judge without a breach of his oath and the law. For herein there is nothing repugnant to natural justice; though the artificial reason of it, drawn from the feudal law, may not be quite obvious to every body. And therefore, on account of a supposed hardship upon the half brother, a modern judge might wish it had been otherwise settled; yet it is not in his power to alter it. But if any court were now to determine, that an elder brother of the half blood might enter upon and seize any lands

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lands that were purchased by his younger brother, no subsequent judges would scruple to declare that such prior determination was unjust, was unreasonable, and therefore was not law. So that the law, and the opinion of the judge, are not always convertible terms, or one and the same thing; since it sometimes may happen that the judge may mistake the law. Upon the whole, however, we may take it as a general rule, "That the decisions of courts of justice are the evidence of what is common law;" in the same manner as in the civil law, what the emperor had once determined was to serve for a guide for the future.

The decisions therefore of courts are held in the highest regard, and are not only preserved as authentic records in the treasuries of the several courts, but are handed out to public view in the numerous volumes of reports which furnish the lawyer's library. These reports are histories of the several cases, with a short summary of the proceedings, which are preserved at large in the record; the arguments on both sides, and the reasons the court gave for its judgment; taken down in short notes by persons present at the determination. And these serve as indexes to, and also to explain, the records; which always, in matters of consequence and nicety, the judges direct to be searched. The reports are extant in a regular series from the reign of king Edward II. inclusive; and from his time to that of Henry VIII. were taken by the prothonotaries, or chief scribes of the court, at the expence of the crown, and published annually, whence they are known under the denomination of the *year-books*. And it is much to be wished that this beneficial custom had, under proper regulations, been continued to this day; for though king James I. at the instance of lord Bacon, appointed two reporters, with a handsome stipend, for this purpose; yet that wise institution was soon neglected, and from the reign of Henry VIII. to the present time this task has been executed by many private and cotemporary hands; who sometimes through haste and inaccuracy, sometimes through mistake and want of skill, have published very crude and imperfect (perhaps contradictory) accounts of one and the same determination. Some of the most valuable of the ancient reports are those published by lord chief justice Coke; a man of infinite learning in his profession, though not a little infected with the pedantry and quaintness of the times he lived in, which appear strongly in all his works. However, his writings are so highly esteemed, that they are generally cited without the author's name (A).

Besides these reporters, there are also other authors, to whom great veneration and respect are paid by the students of the common law. Such are Glanvil and Bracton, Britton and Fleta, Littleton and Fitzherbert,

with some others of ancient date, whose treatises are cited as authority; and are evidence that cases have formerly happened in which such and such points were determined, which are now become settled and first principles. One of the last of these methodical writers in point of time, whose works are of any intrinsic authority in the courts of justice, and do not entirely depend on the strength of their quotations from older authors, is the same learned judge we have just mentioned, Sir Edward Coke; who hath written four volumes of *Institutes*, as he is pleased to call them, tho' they have little of the institutional method to warrant such a title. The first volume is a very extensive comment upon a little excellent treatise of tenures, compiled by judge Littleton in the reign of Edward IV. This comment is a rich mine of valuable common-law learning, collected and heaped together from the ancient reports and year-books, but greatly defective in method (B). The second volume is a comment upon many old acts of parliament, without any systematical order; the third a more methodical treatise of the pleas of the crown; and the fourth an account of the several species of courts (C).

And thus much for the first ground and chief cornerstone of the laws of England; which is general immemorial custom, or common law, from time to time declared in the decisions of the courts of justice; which decisions are preserved among the public records, explained in the reports, and digested for general use in the authoritative writings of the venerable sages of the law.

The Roman law, as practised in the times of its liberty, paid also a great regard to custom; but not so much as our law: it only then adopting it when the written law was deficient. Though the reasons alleged in the digest will fully justify our practice in making it of equal authority with, when it is not contradicted by, the written law. "For since (says Julianus) the written law binds us for no other reason but because it is approved by the judgment of the people, therefore those laws which the people have approved without writing ought also to bind every body. For where is the difference, whether the people declare their assent to a law by suffrage, or by a uniform course of acting accordingly?" Thus did they reason while Rome had some remains of her freedom; but, when the imperial tyranny came to be fully established, the civil laws speak a very different language. *Quod principi placuit legis habet vigorem, cum populus ei et in eum omne suum imperium et potestatem conferat*, says Ulpian. *Imperator solus et conditor et interpretis legis existimatur*, says the code. And again, *Sacrilegii instar est rescripto principis obviari*. And indeed it is one of the characteristic marks of British liberty, that the common law depends

(A) His reports, for instance, are styled *κατ' ἐξοχήν*, "the reports;" and in quoting them we usually say, 1 or 2 Rep. not 1 or 2 Coke's Rep. as in citing other authors. The reports of judge Croke are also cited in a peculiar manner, by the name of those princes in whose reigns the cases reported in his three volumes were determined; viz. queen Elizabeth, king James, and king Charles I.; as well as by the number of each volume. For sometimes we call them 1, 2, and 3 Cro.; but more commonly Cro. Eliz. Cro. Jac. and Cro. Car.

(B) It is usually cited either by the name of Co. Litt. or as 1 Inst.

(C) These are cited as 2, 3, or 4 Inst. without any author's name. An honorary distinction, which, we observed, is paid to the works of no other writer; the generality of reports and other tracts being quoted in the name of the compiler, as 2 Ventris, 4 Leonard, 1 Siderfin, and the like.

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depends upon custom ; which carries this internal evidence of freedom along with it, that it probably was introduced by the voluntary consent of the people.

II. The second branch of the unwritten laws of England are particular customs, or laws which affect only the inhabitants of particular districts.

These particular customs, or some of them, are without doubt the remains of that multitude of local customs before-mentioned, out of which the common law, as it now stands, was collected at first by king Alfred, and afterwards by king Edgar and Edward the confessor : each district mutually sacrificing some of its own special usages, in order that the whole kingdom might enjoy the benefit of one uniform and universal system of laws. But, for reasons that have been now long forgotten, particular counties, cities, towns, manors, and lordships, were very early indulged with the privilege of abiding by their own customs, in contradistinction to the rest of the nation at large : which privilege is confirmed to them by several acts of parliament.

Such is the custom of gavelkind in Kent and some other parts of the kingdom (though perhaps it was also general till the Norman conquest) ; which ordains, among other things, that not the eldest son only of the father shall succeed to his inheritance, but all the sons alike ; and that, though the ancestor be attainted and hanged, yet the heir shall succeed to his estate, without any escheat to the lord.—Such is the custom that prevails in divers ancient boroughs, and therefore called *borough-english*, that the youngest son shall inherit the estate, in preference to all his elder brothers.—Such is the custom in other boroughs, that a widow shall be entitled, for her dower, to all her husband's lands ; whereas at the common law she shall be endowed of one third part only.—Such also are the special and particular customs of manors, of which every one has more or less, and which bind all the copyhold tenants that hold of the said manors.—Such likewise is the custom of holding divers inferior courts, with power of trying causes, in cities and trading towns ; the right of holding which, when no royal grant can be shown, depends entirely upon immemorial and established usage.—Such, lastly, are many particular customs within the city of London, with regard to trade, apprentices, widows, orphans, and a variety of other matters. All these are contrary to the general law of the land, and are good only by special usage ; though the customs of London are also confirmed by act of parliament.

To this head may most properly be referred a particular system of customs used only among one set of the king's subjects, called the *custom of merchants*, or *lex mercatoria* : which, however different from the general rules of the common law, is yet ingrafted into it, and made a part of it ; being allowed, for the benefit of trade, to be of the utmost validity in all commercial transactions ; for it is a maxim of law, that *cuiuslibet in sua arte credendum est*.

41 The rules relating to particular customs regard either the *proof* of their existence ; their *legality* when proved ; or their usual method of *allowance*. And first we will consider the rules of *proof*.

As to gavelkind, and borough-english, the law takes particular notice of them ; and there is no occasion to N° 176.

prove, that such customs actually exist, but only that the lands in question are subject thereto. All other private customs must be particularly pleaded ; and as well the existence of such customs must be shown, as that the thing in dispute is within the custom alleged. The trial in both cases (both to show the existence of the custom, as, “ that in the manor of Dale lands shall descend only to the heirs male, and never to the heirs female ;” and also to show “ that the lands in question are within that manor”) is by a jury of 12 men, and not by the judges ; except the same particular custom has been before tried, determined, and recorded, in the same court.

The customs of London differ from all others in point of trial : for if the existence of the custom be brought in question, it shall not be tried by a jury, but by certificate from the lord mayor and aldermen by the mouth of their recorder ; unless it be such a custom as the corporation is itself interested in, as a right of taking toll, &c. for then the law permits them not to certify on their own behalf.

When a custom is actually proved to exist, the next inquiry is into the legality of it ; for if it is not a good custom, it ought to be no longer used. *Malus usus abolendus est*, is an established maxim of the law. To make a particular custom good, the following are necessary requisites.

1. That it have been used so long, that the memory of man runneth not to the contrary. So that, if any one can show the beginning of it, it is no good custom. For which reason, no custom can prevail against an express act of parliament ; since the statute itself is a proof of a time when such a custom did not exist.

2. It must have been *continued*. Any interruption would cause a temporary ceasing : the revival gives it a new beginning, which will be within time of memory, and thereupon the custom will be void. But this must be understood with regard to an interruption of the right ; for an interruption of the possession only, for 10 or 20 years, will not destroy the custom. As if the inhabitants of a parish have a customary right of watering their cattle at a certain pool, the custom is not destroyed though they do not use it for 10 years ; it only becomes more difficult to prove : but if the right be any how discontinued for a day, the custom is quite at an end.

3. It must have been *peaceable*, and acquiesced in ; not subject to contention and dispute. For as customs owe their original to common consent, their being immemorially disputed, either at law or otherwise, is a proof that such consent was wanting.

4. Customs must be *reasonable* ; or rather, taken negatively, they must not be unreasonable. Which is not always, as Sir Edward Coke says, to be understood of every unlearned man's reason ; but of artificial and legal reason, warranted by authority of law. Upon which account a custom may be good, though the particular reason of it cannot be assigned ; for it sufficeth, if no good legal reason can be assigned against it. Thus a custom in a parish, that no man shall put his beasts into the common till the third of October, would be good ; and yet it would be hard to show the reason why that day in particular is fixed upon, rather than the day before or after. But a custom, that no cattle shall

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shall be put in till the lord of the manor has first put in his, is unreasonable, and therefore bad: for peradventure the lord will never put in his; and then the tenants will lose all their profits.

5. Customs ought to be *certain*. A custom, that lands shall descend to the most worthy of the owner's blood, is void; for how shall this worth be determined? but a custom to descend to the next male of the blood exclusive of females, is certain, and therefore good. A custom to pay two pence an acre in lieu of tithes, is good; but to pay sometimes two pence and sometimes three pence, as the occupier of the land pleases, is bad for its uncertainty. Yet a custom, to pay a year's improved value for a fine on a copyhold estate, is good; though the value is a thing uncertain: for the value may at any time be ascertained; and the maxim of law is, *Id certum est, quod certum reddi potest*.

6. Customs, though established by consent, must be (when established) *compulsory*: and not left to the option of every man, whether he will use them or no. Therefore a custom, that all the inhabitants shall be rated toward the maintenance of a bridge, will be good; but a custom, that every man is to contribute thereto at his own pleasure, is idle and absurd, and indeed no custom at all.

7. Lastly, customs must be *consistent* with each other. One custom cannot be set up in opposition to another. For if both are really customs, then both are of equal antiquity, and both established by mutual consent: which to say of contradictory customs, is absurd. Therefore, if one man prescribes that by custom he has a right to have windows looking into another's garden; the other cannot claim a right by custom to stop up or obstruct those windows: for these two contradictory customs cannot both be good, nor both stand together. He ought rather to deny the existence of the former custom.

Next, as to the *allowance* of special customs. Customs, in derogation of the common law, must be construed strictly. Thus, by the custom of gavelkind, an infant of 15 years may by one species of conveyance (called *a deed of feoffment*) convey away his lands in fee simple, or for ever. Yet this custom does not empower him to use any other conveyance, or even to lease them for seven years: for the custom must be strictly pursued. And, moreover, all special customs must submit to the king's prerogative. Therefore, if the king purchases lands of the nature of gavelkind, where all the sons inherit equally; yet, upon the king's demise, his eldest son shall succeed to those lands alone. And thus much for the second part of the *leges non scriptæ*, or those particular customs which affect particular persons or districts only.

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branch of
the unwrit-
ten law.

III. The third branch of them are those peculiar laws which by custom are adopted and used only in certain peculiar courts and jurisdictions. And by these are understood the civil and canon laws.

It may seem a little improper, at first view, to rank these laws under the head of *leges non scriptæ*, or unwritten laws, seeing they are set forth by authority in their pandects, their codes, and their institutions; their councils, decrees, and decretals; and enforced by an immense number of expositions, decisions, and treatises of the learned in both branches of the law. But this is done after the example of Sir Matthew Hale,
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because it is most plain, that it is not on account of their being written laws, that either the canon law, or the civil law, have any obligation within this kingdom: neither do their force and efficacy depend upon their own intrinsic authority; which is the case of our written laws or acts of parliament. They bind not the subjects of England, because their materials were collected from popes or emperors; were digested by Justinian, or declared to be authentic by Gregory. These considerations give them no authority here: for the legislature of England doth not, nor ever did, recognize any foreign power, as superior or equal to it in this kingdom; or as having the right to give law to any the meanest of its subjects. But all the strength that either the papal or imperial laws have obtained in this realm (or indeed in any other kingdom in Europe) is only because they have been admitted and received by immemorial usage and custom in some particular cases, and some particular courts; and then they form a branch of the *leges non scriptæ*, or customary law: or else, because they are in some other cases introduced by consent of parliament, and then they owe their validity to the *leges scriptæ*, or statute law. This is expressly declared in those remarkable words of the statute 25 Hen. VIII. c. 21. addressed to the king's royal majesty.—“This your grace's realm, recognizing no superior under God but only your grace, hath been and is free from subjection to any man's laws, but only to such as have been devised, made, and ordained within this realm for the wealth of the same; or to such other as, by sufferance of your grace and your progenitors, the people of this your realm have taken at their free liberty, by their own consent, to be used among them; and have bound themselves by long use and custom to the observance of the same: not as to the observance of the laws of any foreign prince, potentate, or prelate; but as to the customed and ancient laws of this realm, originally established as laws of the same, by the said sufferance, consents, and custom; and none otherwise.”

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Civil law.

1. By the civil law, absolutely taken, is generally understood the civil or municipal law of the Roman empire, as comprised in the institutes, the code, and the digest of the emperor Justinian, and the novel constitutions of himself and some of his successors; of which it may not be amiss to give a short and general account.

The Roman law (founded first upon the regal constitutions of their ancient kings, next upon the 12 tables of the decemviri, then upon the laws or statutes enacted by the senate or people, the edicts of the prætor, and the *responsa prudentum* or opinions of learned lawyers, and lastly upon the imperial decrees or constitutions of successive emperors) had grown to so great a bulk, or, as Livy expresses it, *tam immensus aliarum super alias acervatarum legum cunulus*, that they were computed to be many camels load by an author who preceded Justinian. This was in part remedied by the collections of three private lawyers, Gregorius, Hermogenes, and Papirius; and then by the emperor Theodosius the younger, by whose orders a code was compiled, A. D. 438, being a methodical collection of all the imperial constitutions then in force: which Theodosian code was the only book of civil law received as authentic in the western part of Europe, till
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many centuries after; and to this it is probable that the Franks and Goths might frequently pay some regard, in framing legal constitutions for their newly erected kingdoms. For Justinian commanded only in the eastern remains of the empire; and it was under his auspices, that the present body of civil law was compiled and finished by Tribonian and other lawyers, about the year 533.

This consists of, 1. The institutes; which contain the elements or first principles of the Roman law, in four books. 2. The digests or pandects, in 50 books; containing the opinions and writings of eminent lawyers, digested in a systematical method. 3. A new code, or collection of imperial constitutions; the lapse of a whole century having rendered the former code of Theodosius imperfect. 4. The novels, or new constitutions, posterior in time to the other books, and amounting to a supplement to the code; containing new decrees of successive emperors, as new questions happened to arise. These form the body of Roman law, or *corpus juris civilis*, as published about the time of Justinian: which, however, fell soon into neglect and oblivion, till about the year 1130, when a copy of the digests was found at Amalfi in Italy; which accident, concurring with the policy of the Roman ecclesiastics, suddenly gave new vogue and authority to the civil law, introduced it into several nations, and occasioned that mighty inundation of voluminous comments, with which this system of law, more than any other, is now loaded.

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Canon law. 2. The canon law is a body of Roman ecclesiastical law, relative to such matters as that church either has, or pretends to have, the proper jurisdiction over. This is compiled from the opinions of the ancient Latin fathers, the decrees of general councils, the decretal epistles and bulls of the holy see. All which lay in the same disorder and confusion as the Roman civil law: till, about the year 1151, one Gratian an Italian monk, animated by the discovery of Justinian's pandects, reduced the ecclesiastical constitutions also into some method, in three books; which he entitled *Concordia discordantium canonum*, but which are generally known by the name of *Decretum Gratiani*. These reached as low as the time of Pope Alexander III. The subsequent papal decrees, to the pontificate of Gregory IX. were published in much the same method under the auspices of that pope, about the year 1230, in five books; entitled *Decretalia Gregorii noni*. A sixth book was added by Boniface VIII. about the year 1298, which is called *Sextus Decretalium*. The Clementine constitutions, or decrees of Clement V. were in like manner authenticated in 1317 by his successor John XXII.; who also published 20 constitutions of his own, called *Extravagantes Joannis*: all which in some measure answer to the novels of the civil law. To these have been since added some decrees of later popes in five books, called *Extravagantes Communes*. And all these together, Gratian's decree, Gregory's decretals, the sixth decretal, the Clementine constitutions, and the Extravagants of John and his successors, form the *corpus juris canonici*, or body of the Roman canon law.

Besides these pontifical collections, which during the times of popery were received as authentic in this island, as well as in other parts of Christendom, there

is also a kind of national canon law, composed of legatine and provincial constitutions, and adapted only to the exigencies of this church and kingdom. The legatine constitutions were ecclesiastical laws, enacted in national synods, held under the cardinals Otho and Othobon, legates from Pope Gregory IX. and Pope Clement IV. in the reign of King Henry III. about the years 1220 and 1268. The provincial constitutions are principally the decrees of provincial synods, held under divers archbishops of Canterbury, from Stephen Langton in the reign of Henry III. to Henry Chichele in the reign of Henry V.; and adopted also by the province of York in the reign of Henry VI. At the dawn of the reformation, in the reign of King Henry VIII. it was enacted in parliament, that a review should be had of the canon law; and till such review should be made, all canons, constitutions, ordinances and synodals provincial, being then already made, and not repugnant to the law of the land or the king's prerogative, should still be used and executed. And, as no such review has yet been perfected, upon this statute now depends the authority of the canon law in England.

As for the canons enacted by the clergy under James I. in the year 1603, and never confirmed in parliament, it has been solemnly adjudged upon the principles of law and the constitution, that where they are not merely declaratory of the ancient canon law, but are introductory of new regulations, they do not bind the laity, whatever regard the clergy may think proper to pay them.

There are four species of courts, in which the civil and canon laws are permitted under different restrictions to be used. 1. The courts of the archbishops and bishops, and their derivative officers; usually called *courts Christian*, (*curia Christianitatis*), or the *ecclesiastical courts*. 2. The military courts. 3. The courts of admiralty. 4. The courts of the two universities. In all, their reception in general, and the different degrees of that reception, are grounded entirely upon custom; corroborated in the latter instance by act of parliament, ratifying those charters which confirm the customary law of the universities. The more minute consideration of them will fall under their proper articles. It will suffice at present to remark a few particulars relative to them all, which may serve to inculcate more strongly the doctrine laid down concerning them.

1. And first, the courts of common law have the superintendency over these courts; to keep them within their jurisdictions; to determine wherein they exceed them; to restrain and prohibit such excess; and (in case of contumacy) to punish the officer who executes, and in some cases the judge who enforces, the sentence so declared to be illegal.

2. The common law has reserved to itself the exposition of all such acts of parliament, as concern either the extent of these courts, or the matters depending before them. And therefore, if these courts either refuse to allow these acts of parliament, or will expound them in any other sense than what the common law puts upon them, the king's courts at Westminster will grant prohibitions to restrain and control them.

3. An appeal lies from all these courts to the king, in the last resort; which proves that the jurisdiction exercised

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exercised in them is derived from the crown of England, and not from any foreign potentate, or intrinsic authority of their own.—And, from these three strong marks and ensigns of superiority, it appears beyond a doubt, that the civil and canon laws, though admitted in some cases by custom in some courts, are only subordinate and *leges sub graviore lege*; and that thus admitted, restrained, altered, new-modelled, and amended, they are by no means with us a distinct independent species of laws, but are inferior branches of the customary or unwritten laws of England, properly called the *kings ecclesiastical, the king's military, the king's maritime, or the king's academical, laws*.

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The writ-
ten laws.

Let us next proceed to the *leges scriptæ*, the written laws of the kingdom; which are statutes, acts, or edicts, made by the king's majesty, by and with the advice of the lords spiritual and temporal and commons in parliament assembled. The oldest of these now extant, and printed in our statute books, is the famous *magna charta*, as confirmed in parliament 9 Hen. III. though doubtless there were many acts before that time, the records of which are now lost, and the determinations of them perhaps at present currently received for the maxims of the old common law.

The manner of making these statutes being explained under the articles BILL and PARLIAMENT, we shall here only take notice of the different kinds of statutes; and of some general rules with regard to their construction (D).

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Kinds of
statutes.

First, as to their several kinds. Statutes are either *general* or *special*, public or private. A general or public act is an universal rule that regards the whole community: and of this the courts of law are bound to take notice judicially and *ex officio*, without the statute being particularly pleaded, or formerly set forth, by the party who claims an advantage under it. Special or private acts are rather exceptions than rules, being those which only operate upon particular persons and private concerns; such as the Romans entitled *senatus decreta*, in contradistinction to the *senatus consulta*, which regarded the whole community; and of these the judges are not bound to take notice, unless they be formally shewn and pleaded. Thus, to shew the distinction, the statute 13 Eliz. c. 10. to prevent spiritual persons from making leases for longer terms than 21 years or three lives, is a public act; it being

a rule prescribed to the whole body of spiritual persons in the nation: but an act to enable the bishop of Chester to make a lease to A. B. for 60 years, is an exception to this rule; it concerns only the parties and the bishop's successors, and is therefore a private act.

Statutes also are either *declaratory* of the common law, or *remedial* of some defects therein. Declaratory, where the old custom of the kingdom is almost fallen into disuse, or become disputable; in which case the parliament has thought proper, *in perpetuum rei testimonium*, and for avoiding all doubts and difficulties, to declare what the common law is and ever hath been. Thus the statute of treasons, 25 Edw. III. cap. 2. doth not make any new species of treasons: but only, for the benefit of the subject, declares and enumerates those several kinds of offence which before were treason at the common law. Remedial statutes are those which are made to supply such defects, and abridge such superfluities, in the common law, as arise either from the general imperfection of all human laws, from change of time and circumstances, from the mistakes and unadvised determinations of unlearned judges, or from any other cause whatsoever. And this being done, either by enlarging the common law where it was too narrow and circumscribed, or by restraining it where it was too lax and luxuriant, hath occasioned another subordinate division of remedial acts of parliament into *enlarging* and *restraining* statutes. To instance again in the case of treason. Clipping the current coin of the kingdom was an offence not sufficiently guarded against by the common law: therefore it was thought expedient by statute 5 Eliz. c. 11. to make it high treason, which it was not at the common law: so that this was an *enlarging* statute. At common law, also, spiritual corporations might lease out their estates for any term of years, till prevented by the statute 13 Eliz. before-mentioned: this was therefore a *restraining* statute.

Secondly, the rules to be observed with regard to the construction of statutes are principally these which follow.

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Construc-
tion of
statutes.

1. There are three points to be considered in the construction of all remedial statutes; the old law, the mischief, and the remedy: that is, how the common law stood at the making of the act; what the mischief was, for which the common law did not provide; and

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(D) The method of citing these acts of parliament is various. Many of the ancient statutes are called after the name of the place where the parliament was held that made them; as the statutes of Merton and Marleberge, of Westminster, Gloucester, and Winchester. Others are denominated entirely from their subject; as the statutes of Wales and Ireland, the *articuli cleri*, and the *prerogativa regis*. Some are distinguished by their initial words, a method of citing very ancient: being used by the Jews, in denominating the books of the pentateuch; by the Christian church, in distinguishing their hymns and divine offices; by the Romanists, in describing their papal bulls; and in short by the whole body of ancient civilians and canonists, among whom this method of citation generally prevailed, not only with regard to chapters, but inferior sections also; in imitation of all which we still call some of the old statutes by their initial words, as the statute of *Quia emptores*, and that of *Circumspecte agatis*. But the most usual method of citing them, especially since the time of Edward II. is by naming the year of the king's reign in which the statute was made, together with the chapter or particular act, according to its numeral order; as, 9 Geo. II. c. 4. For all the acts of one session of parliament taken together make properly but one statute: and therefore, when two sessions have been held in one year, we usually mention stat. 1. or 2. Thus the bill of rights is cited, as 1 W. & M. ft. 2. c. 2. signifying that it is the second chapter or act of the second statute or the laws made in the second sessions of parliament held in the first year of king William and queen Mary.

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what remedy the parliament hath provided to cure this mischief. And it is the business of the judges so to construe the act, as to suppress the mischief and advance the remedy. Let us instance again in the same restraining statute of 13 Eliz. c. 10. By the common law, ecclesiastical corporations might let as long leases as they thought proper: the mischief was, that they let long and unreasonable leases, to the impoverishment of their successors: the remedy applied by the statute was by making void all leases by ecclesiastical bodies for longer terms than three lives or 21 years. Now in the construction of this statute it is held, that leases, tho' for a longer term, if made by a bishop, are not void during the bishop's continuance in his see; or, if made by a dean and chapter, they are not void during the continuance of the dean; for the act was made for the benefit and protection of the successor. The mischief is therefore sufficiently suppressed by vacating them after the determination of the interest of the granters; but the leases, during their continuance, being not within the mischief, are not within the remedy.

2. A statute, which treats of things or persons of an inferior rank, cannot by any *general words* be extended to those of a superior. So a statute, treating of "deans, prebendaries, parsons, vicars, and others having spiritual promotion," is held not to extend to bishops, though they have spiritual promotion; deans being the highest persons named, and bishops being of a still higher order.

3. Penal statutes must be construed strictly. Thus the statute 1 Edw. VI. c. 12. having enacted that those who are convicted of stealing *horses* should not have the benefit of clergy, the judges conceived that this did not extend to him who should steal but one *horse*, and therefore procured a new act for that purpose in the following year. And, to come nearer to our own times, by the statute 14 Geo. II. c. 6. stealing *sheep or other cattle*, was made felony without benefit of clergy. But these general words, "or other cattle," being looked upon as much too loose to create a capital offence, the act was held to extend to nothing but mere sheep. And therefore, in the next sessions, it was found necessary to make another statute, 15 Geo. II. c. 34. extending the former to bulls, cows, oxen, steers, bullocks, heifers, calves, and lambs, by name.

4. Statutes against frauds are to be liberally and beneficially expounded. This may seem a contradiction to the last rule; most statutes against frauds being in their consequences penal. But this difference is here to be taken: where the statute acts upon the offender, and inflicts a penalty, as the pillory or a fine, it is then to be taken strictly; but when the statute acts upon the offence, by setting aside the fraudulent transaction, here it is to be construed liberally. Upon this footing the statute of 13 Eliz. c. 5. which voids all gifts of goods, &c. made to defraud creditors and others, was held to extend by the general words to a gift made to defraud the queen of a forfeiture.

5. One part of a statute must be so construed by another, that the whole may (if possible) stand: *ut res magis valeat quam pereat*. As if land be vested in the king and his heirs by act of parliament, saving the right of A; and A has at that time a lease of it for three

years; here A shall hold it for his term of three years, and afterwards it shall go to the king. For this interpretation furnishes matter for every clause of the statute to work and operate upon. But,

6. A saving, totally repugnant to the body of the act, is void. If therefore an act of parliament vests land in the king and his heirs, saving the right of all persons whatsoever; or vests the land of A in the king, saving the right of A: in either of these cases the saving is totally repugnant to the body of the statute, and (if good) would render the statute of no effect or operation; and therefore the saving is void, and the land vests absolutely in the king.

7. Where the common law and a statute differ, the common law gives place to the statute; and an old statute gives place to a new one. And this upon the general principle laid down in the last section, that *leges posteriores priores contrarias abrogant*. But this is to be understood only when the latter statute is couched in negative terms, or by its matter necessarily implies a negative. As if a former act says, that a juror upon such a trial shall have twenty pounds a year, and a new statute comes and says he shall have twenty merks; here the latter statute, though it does not express, yet necessarily implies, a negative, and virtually repeals the former. For if twenty merks be made qualification sufficient, the former statute which requires twenty pounds is at an end. But if both the acts be merely affirmative, and the substance such that both may stand together, here the latter does not repeal the former, but they shall both have a concurrent efficacy. If by a former law an offence be indictable at the quarter-sessions, and a later law makes the same offence indictable at the assizes; here the jurisdiction of the sessions is not taken away, but both have a concurrent jurisdiction, and the offender may be prosecuted at either: unless the new statute subjoins express negative words; as, that the offence shall be indictable at the assizes, *and not elsewhere*.

8. If a statute, that repeals another, is itself repealed afterwards, the first statute is hereby revived, without any formal words for that purpose. So when the statutes of 26 and 35 Hen. VIII. declaring the king to be the supreme head of the church, were repealed by a statute 1 and 2 Philip and Mary, and this latter statute was afterwards repealed by an act of 1 Eliz. there needed not any express words of revival in queen Elizabeth's statute, but these acts of king Henry were impliedly and virtually revived.

9. Acts of parliament derogatory from the power of subsequent parliaments bind not. So the statute 11 Hen. VII. c. 1. which directs, that no person for assisting a king *de facto* shall be attainted of treason by act of parliament or otherwise, is held to be good only as to common prosecutions for high treason; but will not restrain or clog any parliamentary attainder. Because the legislature, being in truth the sovereign power, is always of equal, always of absolute authority: it acknowledges no superior upon earth, which the prior legislature must have been if its ordinances could bind the present parliament. And upon the same principle Cicero, in his letters to Atticus, treats with a proper contempt these restraining clauses, which endeavour to tie up the hands of succeeding legislatures.

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gislatures. "When you repeal the law itself (says he), you at the same time repeal the prohibitory clause which guards against such repeal."

10. Lastly, acts of parliament that are impossible to be performed are of no validity: and if there arise out of them collaterally any absurd consequences, manifestly contradictory to common reason, they are with regard to those collateral consequences void. We lay down the rule with these restrictions; though we know it is generally laid down more largely, that acts of parliament contrary to reason are void. But if the parliament will positively enact a thing to be done which is unreasonable, we know of no power that can control it: and the examples usually alleged in support of this sense of the rule do none of them prove, that where the main object of a statute is unreasonable, the judges are at liberty to reject it; for that were to set the judicial power above that of the legislature, which would be subversive of all government. But where some collateral matter arises out of the general words, and happens to be unreasonable; there the judges are in decency to conclude that this consequence was not foreseen by the parliament, and therefore they are at liberty to expound the statute by equity, and only *quoad hoc* disregard it. Thus if an act of parliament gives a man power to try all causes that arise within his manor of Dale; yet, if a cause should arise in which he himself is party, the act is construed not to extend to that, because it is unreasonable that any man should determine his own quarrel. But, if we could conceive it possible for the parliament to enact, that he should try as well his own causes as those of other persons, there is no court that has power to defeat the intent of the legislature, when couched in such evident and express words as leave no doubt whether it was the intent of the legislature or not.

These are the several grounds of the laws of England: over and above which, equity is also frequently called in to assist, to moderate, and to explain them. What equity is, and how impossible in its very essence to be reduced to stated rules, hath been shewn above. It may be sufficient, therefore, to add in this place, that, besides the liberality of sentiment with which our common-law judges interpret acts of parliament, and such rules of the unwritten law as are not of a positive kind, there are also courts of equity established for the benefit of the subject, to detect latent frauds and concealments, which the process of the courts of law is not adapted to reach; to enforce the execution of such matters of trust and confidence, as are binding in conscience, though not cognizable in a court of law; to deliver from such dangers as are owing to misfortune or oversight; and to give a more specific relief, and more adapted to the circumstances of the case, than can always be obtained by the generality of the rules of the positive or common law. This is the business of the courts of equity, which however are only conversant in matters of property. For the freedom of our constitution will not permit, that in criminal cases a power should be lodged in any judge to construe the law otherwise than according to the letter. This caution, while it admirably protects the public liberty, can never bear hard upon individuals. A man cannot suffer more punishment than the law assigns, but he may

suffer less. The laws cannot be strained by partiality to inflict a penalty beyond what the letter will warrant; but, in cases where the letter induces any apparent hardship, the crown has the power to pardon.

The objects of the laws of England are, 1. The rights of persons. 2. The rights of things. 3. Private wrongs. 4. Public wrongs.

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Of the RIGHTS of PERSONS.

SECT. I. Of the absolute rights of individuals. [xiv.]

(1.) THE objects of the Laws of England are, 1. Rights, 2. Wrongs.

(2.) Rights are the rights of persons, or the rights of things.

(3.) The rights of persons are such as concern, and are annexed to, the persons of men: and, when the person to whom they are due is regarded, they are called (simply) rights; but, when we consider the person from whom they are due, they are then denominated duties.

(4.) Persons are either natural, that is, such as they are formed by nature; or artificial, that is, created by human policy, as bodies politic or corporations.

(5.) The rights of natural persons are, 1. Absolute, or such as belong to individuals. 2. Relative, or such as regard members of society.

(6.) The absolute rights of individuals, regarded by the municipal laws (which pay no attention to duties, of the absolute kind), compose what is called political or civil liberty.

(7.) Political or civil liberty is the natural liberty of mankind, so far restrained by human laws as is necessary for the good of society.

(8.) The absolute rights or civil liberties of Englishmen, as frequently declared in parliament, are principally three; the right of personal security, of personal liberty, and of private property.

(9.) The right of personal security consists in the legal enjoyment of life, limb, body, health, and reputation.

(10.) The right of personal liberty consists in the free power of loco-motion, without illegal restraint or banishment.

(11.) The right of private property consists in every man's free use and disposal of his own lawful acquisitions, without injury or illegal diminution.

(12.) Besides these three primary rights, there are others which are secondary and subordinate; viz. (to preserve the former from unlawful attacks) 1. The constitution and power of parliaments; 2. The limitation of the king's prerogative;—And (to vindicate them when actually violated) 3. The regular administration of public justice; 4. The right of petitioning for redress of grievances; 5. The right of having and using arms for self defence.

SECT. II. Of the parliament. [xv.]

(1.) THE relations of persons are, 1. Public. 2. Private. The public relations are those of magistrates and people.

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people. Magistrates are superior or subordinate. And, of supreme magistrates, in England, the parliament is the supreme legislative, the king the supreme executive.

(2.) Parliaments, in some shape, are of as high antiquity as the Saxon government in this island; and have subsisted, in their present form, at least five hundred years.

(3.) The parliament is assembled by the king's writs, and its sitting must not be intermitted above three years.

(4.) Its constituent parts are the king's majesty, the lords spiritual and temporal, and the commons represented by their members: each of which parts has a negative, or necessary, voice in making laws.

(5.) With regard to the general law of parliament; its power is absolute: each house is the judge of its own privileges; and all the members of either house are intitled to the privilege of speech, of person, of their domestics, and of their lands and goods.

(6.) The peculiar privileges of the lords (besides their judicial capacity), are to hunt in the king's forests; to be attended by the sages of the law; to make proxies; to enter protests; and to regulate the election of the 16 peers of North-Britain.

(7.) The peculiar privileges of the commons are to frame taxes for the subject; and to determine the merits of their own elections, with regard to the qualifications of the electors and elected, and the proceedings at elections themselves.

(8.) Bills are usually twice read in each house, committed, engrossed, and then read a third time; and when they have obtained the concurrence of both houses, and received the royal assent, they become acts of parliament.

(9.) The houses may adjourn themselves; but the king only can prorogue the parliament.

(10.) Parliaments are dissolved, 1. At the king's will. 2. By the demise of the crown, that is, within six months after. 3. By length of time, or having sat for the space of seven years.

[xvi.]

SECT. III. *Of the king and his title.*

(1.) THE supreme executive power of this kingdom is lodged in a single person; the king or queen.

(2.) This royal person may be considered with regard to, 1. His title. 2. His royal family. 3. His councils. 4. His duties. 5. His prerogative. 6. His revenue.

(3.) With regard to his title; the crown of England, by the positive constitution of the kingdom, hath ever been descendible, and so continues.

(4.) The crown is descendible in a course peculiar to itself.

(5.) This course of descent is subject to limitation by parliament.

(6.) Notwithstanding such limitations, the crown retains its descendible quality, and becomes hereditary in the prince to whom it is limited.

(7.) King Egbert, King Canute, and King William I. have been successively constituted the common stocks, or ancestors, of this descent.

(8.) At the revolution the convention of estates, or representative body of the nation, declared, that the misconduct of King James II. amounted to an abdica-

tion of the government, and that the throne was there- by vacant.

(9.) In consequence of this vacancy, and from a regard to the ancient line, the convention appointed the next Protestant heirs of the blood royal of King Charles I. to fill the vacant throne, in the old order of succession; with a temporary exception, or preference, to the person of King William III.

(10.) On the impending failure of the Protestant line of King Charles I. (whereby the throne might again have become vacant) the king and parliament extended the settlement of the crown to the Protestant line of King James I. viz. to the Princess Sophia of Hanover, and the heirs of her body, being Protestants: And she is now the common stock, from whom the heirs of the crown must descend.

SECT. IV. *Of the king's royal family.*

[xvii.]

(1.) THE king's royal family consists, first, of the queen: who is regnant, consort, or dowager.

(2.) The queen consort is a public person, and hath many personal prerogatives and distinct revenues.

(3.) The Prince and Princess of Wales, and the Princess-royal, are peculiarly regarded by the law.

(4.) The other princes of the blood-royal are only intitled to precedence.

SECT. V. *Of the councils belonging to the king.*

[xviii.]

(1.) THE king's councils are, 1. The parliament. 2. The great council of peers. 3. The judges, for matters of law, 4. The privy council.

(2.) In privy-counsellors may be considered, 1. Their creation. 2. Their qualifications. 3. Their duties. 4. Their powers. 5. Their privileges. 6. Their dissolution.

SECT. VI. *Of the king's duties.*

[xix.]

(1.) THE king's duties are to govern his people according to law, to execute judgment in mercy, and to maintain the established religion. These are his part of the original contract between himself and the people; founded in the nature of society, and expressed in his oath at the coronation.

SECT. VII. *Of the king's prerogative.*

[xx]

(1.) PREROGATIVE is that special power and pre-eminence which the king hath above other persons, and out of the ordinary course of law, in right of his regal dignity.

(2.) Such prerogatives are either direct, or incidental. The incidental, arising out of other matters, are considered as they arise: We now treat only of the direct.

(3.) The direct prerogatives regard, 1. The king's dignity, or royal character; 2. His authority, or regal power; 3. His revenue, or royal income.

(4.) The king's dignity consists in the legal attributes of, 1. Personal sovereignty. 2. Absolute perfection. 3. Political perpetuity.

(5.) In the king's authority, or regal power, consists the executive part of government.

(6.) In foreign concerns; the king, as the representative

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tive of the nation, has the right or *prerogative*, 1. Of sending and receiving ambassadors. 2. Of making treaties. 3. Of proclaiming war or peace. 4. Of issuing reprisals. 5. Of granting safe conducts.

(7.) In *domestic* affairs; the *king* is, first, a constituent part of the supreme legislative power; hath a negative upon all new laws; and is bound by no statute, unless specially named therein.

(8.) He is also considered as the general of the kingdom, and may raise fleets and armies, build forts, appoint havens, erect beacons, prohibit the exportation of arms and ammunition, and confine his subjects within the realm, or recall them from foreign parts.

(9.) The *king* is also the fountain of justice, and general conservator of the peace; and therefore may erect courts (wherein he hath a legal ubiquity), prosecute offenders, pardon crimes, and issue proclamations.

(10.) He is likewise the fountain of honour, of office, and of privilege.

(11.) He is also the arbiter of *domestic* commerce; (not of *foreign*, which is regulated by the law of merchants); and is therefore intitled to the erection of public marts, the regulation of weights and measures, and the coinage or legitimation of money.

(12.) The *king* is, lastly, the supreme head of the church; and, as such, convenes, regulates, and dissolves synods, nominates bishops, and receives appeals in all ecclesiastical causes.

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SECT. VIII. *Of the king's revenue.*

(1.) THE *king's revenue* is either *ordinary* or *extraordinary*. And the *ordinary* is, 1. *Ecclesiastical*. 2. *Temporal*.

(2.) THE *king's ecclesiastical* revenue consists in, 1. The custody of the temporalities of vacant bishoprics. 2. Corodies and pensions. 3. Extra-parochial tithes. 4. The first fruits and tenths of benefices.

(3.) THE *king's ordinary temporal* revenue consists in, 1. The demesne lands of the crown. 2. The hereditary excise; being part of the consideration for the purchase of his feudal profits, and the prerogatives of purveyance and pre-emption. 3. An annual sum issuing from the duty on wine-licences; being the residue of the same consideration. 4. His forests. 5. His courts of justice. 6. Royal fish. 7. Wrecks, and things jet-sam, flotsam, and ligan. 8. Royal mines. 9. Treasure trove. 10. Waifs. 11. Estrays. 12. Forfeitures for offences, and deodands. 13. Escheats of lands. 14. Custody of idiots and lunatics.

(4.) THE *king's extraordinary revenue*, consists in aids, subsidies, and supplies, granted him by the commons in parliament.

(5.) Heretofore these were usually raised by grants of the (nominal) *tenth* or *fifteenth* part of the moveables in every township; or by scutages, hydages, and talliages; which were succeeded by *subsidies* assessed upon individuals, with respect to their lands and goods.

(6.) A new system of taxation took place about the time of the revolution: our modern taxes are therefore, 1. *Annual*. 2. *Perpetual*.

(7.) The *annual taxes* are, 1. The land-tax, or the ancient subsidy raised upon a new assessment. 2. The

malt-tax, being an annual excise on malt, mum, cyder, and perry.

(8.) The *perpetual* taxes are, 1. The customs, or tonnage and poundage of all merchandise exported or imported. 2. The excise-duty, or inland imposition on a great variety of commodities. 3. The salt-duty, or excise on salt. 4. The post-office, or duty for the carriage of letters. 5. The stamp-duty on paper, parchment, &c. 6. The duty on houses and windows. 7. The duty on licences for hackney coaches and chairs. 8. The duty on offices and pensions.

(9.) Part of this revenue is applied to pay the interest of the national debt, till the principal is discharged by parliament.

(10.) The produce of these several taxes were originally separate and *specific funds*, to answer *specific loans* upon their respective credits; but are now consolidated by parliament into three principal funds, the *aggregate*, *general*, and *South-sea* funds, to answer *all* the debts of the nation: the public faith being also superadded, to supply deficiencies, and strengthen the security of the whole.

(11.) The surplusses of these funds, after paying the interest of the national debt, are carried together, and denominated the *sinking fund*: which, unless otherwise appropriated by parliament, is annually to be applied towards paying off some part of the principal.

(12.) But, previous to this, the *aggregate* fund is now charged with an annual sum for the *civil list*; which is the immediate proper revenue of the crown, settled by parliament on the king at his accession, for defraying the charges of civil government.

SECT. IX. *Of subordinate magistrates.*

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(1.) SUBORDINATE magistrates, of the most general use and authority, are, 1. *Sheriffs*. 2. *Coroners*. 3. *Justices of the Peace*. 4. *Constables*. 5. *Surveyors of the highways*. 6. *Overseers of the poor*.

(2.) The *sheriff* is the keeper of each county, annually nominated in due form by the king; and is (within his county) a judge, a conservator of the peace, a ministerial officer, and the king's bailiff.

(3.) *Coroners* are permanent officers of the crown in each county, elected by the freeholders; whose office it is to make inquiry concerning the death of the king's subjects, and certain revenues of the crown; and also, in particular cases, to supply the office of sheriff.

(4.) *Justices of the peace* are magistrates in each county, statutorily qualified, and commissioned by the king's majesty: with authority to conserve the peace; to hear and determine felonies, and other misdemeanors; and to do many other acts committed to their charge by particular statutes.

(5.) *Constables* are officers of hundreds and townships, appointed at the leet, and empowered to preserve the peace, to keep watch and ward, and to apprehend offenders.

(6.) *Surveyors of the highways* are officers appointed annually in every parish; to remove annoyances in, and to direct the reparation of the public roads.

(7.) *Overseers of the poor* are officers appointed annually in every parish; to relieve such impotent, and employ such sturdy poor, as are *settled* in each parish, —by birth,—by parentage,—by marriage,—or by

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40 days residence; accompanied with, 1. Notice.
2. Renting a tenement of ten pounds annual value.
3. Paying their assessed taxations. 4. Serving an annual office. 5. Hiring and service for a year. 6. Apprenticeship for seven years. 7. Having a sufficient estate in the parish.

lii. SECT. X. *Of the people, whether aliens, denizens, or natives.*

(1.) THE people are either *aliens*, that is, born out of the dominions, or allegiance, of the crown of Great Britain; or *natives*, that is, born within it.

(2.) Allegiance is the duty of all subjects; being the reciprocal tie of the people to the prince, in return for the protection he affords them; and, in *natives*, this duty of allegiance is natural and perpetual; in *aliens*, is local and temporary only.

(3.) The rights of *natives* are also natural and perpetual: those of *aliens*, local and temporary only; unless they be made denizens by the king, or naturalised by parliament.

liv. SECT. XI. *Of the clergy.*

(1.) THE people, whether aliens, denizens, or natives, are also either *clergy*, that is, all persons in holy orders, or in ecclesiastical offices; or *laity*, which comprehends the rest of the nation.

(2.) The *clerical* part of the nation, thus defined, are, 1. Archbishops and bishops; who are elected by their several chapters, at the nomination of the crown, and afterwards confirmed and consecrated by each other. 2. Deans and chapters. 3. Arch-deacons. 4. Rural deans. 5. Parsons (under which are included appropriators) and vicars; to whom there are generally requisite, holy orders, presentation, institution, and induction. 6. Curates. To which may be added, 7. Church-wardens. 8. Parish-clerks and sextons.

lv. SECT. XII. *Of the civil state.*

(1.) THE *laity* are divisible into three states; *civil*, *military*, and *maritime*.

(2.) The *civil* state (which includes all the nation, except the clergy, the army, and the navy, and many individuals among them also), may be divided into the *nobility* and the *commonalty*.

(3.) The *nobility* are dukes, marquises, earls, viscounts, and barons. These had anciently duties annexed to their respective honours: they are created either by writ, that is, by summons to parliament; or by the king's letters-patent, that is, by royal grant: and they enjoy many privileges exclusive of their senatorial capacity.

(4.) The *commonalty* consist of knights of the garter, knights bannerets, baronets, knights of the bath, knights bachelors, esquires, gentlemen, yeomen, tradesmen, artificers, and labourers.

lvi. SECT. XIII. *Of the military and maritime states.*

(1.) THE *military* state, by the standing constitutional law, consists of the militia of each county, raised from among the people by lot, officered by the
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principal landholders, and commanded by the lord lieutenant.

(2.) The more disciplined occasional troops of the kingdom are kept on foot only from year to year by parliament; and, during that period, are governed by martial law, or arbitrary articles of war, formed at the pleasure of the crown.

(3.) The *maritime* state consists of the officers and mariners of the British navy; who are governed by express and permanent laws, or the articles of the navy, established by act of parliament.

SECT. XIV. *Of master and servant.*

(1.) THE *private*, economical, relations of persons are those of, 1. Master and servant. 2. Husband and wife. 3. Parent and child. 4. Guardian and ward.

(2.) The first relation may subsist between a master and four species of servants; (for slavery is unknown to our laws): viz. 1. Menial servants; who are hired. 2. Apprentices; who are bound by indentures. 3. Labourers; who are casually employed. 4. Stewards, bailiffs, and factors; who are rather in a ministerial state.

(3.) From this relation result divers powers to the master, and emoluments to the servant.

(4.) The master hath a property in the service of his servant; and must be answerable for such acts as the servant does by his express, or implied, command.

SECT. XV. *Of husband and wife.*

(1.) THE second private relation is that of marriage; which includes the reciprocal rights and duties of husband and wife.

(2.) Marriage is duly contracted between persons, 1. Consenting: 2. Free from canonical impediments, which make it voidable: 3. Free also from the civil impediments,—of prior marriage,—of want of age,—of non-consent of parents or guardians, where requisite,—and of want of reason; either of which make it totally void. And it must be celebrated by a clergyman in due form and place.

(3.) Marriage is dissolved, 1. By death. 2. By divorce in the spiritual court; not a *mensa et thoro* only, but a *vinculo matrimonii*, for canonical cause existing previous to the contract. 3. By act of parliament, as for adultery.

(4.) By marriage the husband and wife become one person in law; which unity is the principal foundation of their respective rights, duties, and disabilities.

SECT. XVI. *Of parent and child.*

(1.) THE third, and most universal private relation, is that of parent and child.

(2.) Children are, 1. Legitimate; being those who are born in lawful wedlock, or within a competent time after. 2. Bastards, being those who are not so.

(3.) The duties of parents to legitimate children are, 1. Maintenance. 2. Protection. 3. Education.

(4.) The power of parents consists principally in correction, and consent to marriage. Both may after death be delegated by will to a guardian; and the former also, living the parent, to a tutor or master.

(5.) The duties of legitimate children to parents are obedience, protection, and maintenance.

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(6.) The duty of parents to *bastards* is only that of maintenance.

(7.) The rights of a *bastard* are such only as he can acquire; for he is incapable of inheriting any thing.

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SECT. XVII. *Of guardian and ward.*

(1.) THE fourth private relation is that of *guardian* and *ward*, which is plainly derived from the last; these being, during the continuance of their relation, reciprocally subject to the same rights and duties.

(2.) *Guardians* are of divers sorts: 1. Guardians by nature, or the parents. 2. Guardians for nurture, assigned by the ecclesiastical courts. 3. Guardians in so- cage, assigned by the common law. 4. Guardians by statute, assigned by the father's will. All subject to the superintendence of the court of chancery.

(3.) *Full age* in male or female for all purposes is the age of 21 years (different ages being allowed for different purposes); till which age the person is an *in- fant*.

(4.) An *infant*, in respect of his tender years, hath various privileges, and various disabilities, in law; chiefly with regard to suits, crimes, estates, and con- tracts.

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SECT. XVIII. *Of corporations.*

(1.) BODIES politic, or *corporations*, which are ar- tificial persons, are established for preserving in perpe- tual succession certain rights; which, being conferred on *natural* persons only, would fail in process of time.

(2.) Corporations are, 1. *Aggregate*, consisting of many members. 2. *Sole*, consisting of one person only.

(3.) Corporations are also either *spiritual*, erected to perpetuate the rights of the church; or *lay*. And the lay are, 1. *Civil*; erected for many temporal purposes. 2. *Eleemosynary*; erected to perpetuate the charity of the founder.

(4.) Corporations are usually erected and named, by virtue of the king's royal charter; but may be crea- ted by act of parliament.

(5.) The powers incident to all corporations are, 1. To maintain perpetual succession. 2. To act in their corporate capacity like an individual. 3. To hold lands, subject to the statutes of mortmain. 4. To have a com- mon seal. 5. To make by-laws. Which last power, in spiritual or eleemosynary corporations, may be ex- ecuted by the king or the founder.

(6.) The duty of corporations is to answer the ends of their institution.

(7.) To enforce this duty, all corporations may be *visited*: spiritual corporations by the ordinary; lay cor- porations by the founder, or his representatives; viz. the civil by the king (who is the *fundator incipiens* of all) represented in his court of king's bench; the ele- mosynary by the endower (who is the *fundator perfici- ens* of such), or by his heirs or assigns.

(8.) Corporations may be dissolved, 1. By act of parliament. 2. By the natural death of all their mem- bers. 3. By surrender of their franchises. 4. By for- feiture of their charter.

CHAP. II.

Of the RIGHTS of THINGS.

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SECT. I. *Of Property in general.*

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(1.) ALL *dominion* over external objects has its ori- ginal from the gift of the Creator to man in general.

(2.) The *substance* of things was, at first, common to all mankind; yet a temporary property, in the *use* of them, might even then be acquired, and continued, by *occupancy*.

(3.) In process of time a permanent property was established in the *substance*, as well as the *use*, of things; which was also originally acquired by *occupancy* only.

(4.) Lest this property should determine by the owner's dereliction or death, whereby the thing would again become common, societies have established *con- veyances*, *wills*, and *heirships*, in order to continue the property of the first occupant: and, where by accident such property becomes discontinued or unknown, the thing usually results to the *sovereign* of the state, by virtue of the municipal law.

(5.) But of some things, which are incapable of per- manent substantial dominion, there still subsists only the same transient usufructuary property, which originally subsisted in all things.

SECT. II. *Of real property; and, first, of corpo- real hereditaments.*

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(1.) IN this *property*, or exclusive dominion, con- sist the *rights of things*; which are, 1. Things *real*. 2. Things *personal*.

(2.) In things *real* may be considered, 1. Their se- veral *kinds*. 2. The *tenures* by which they may be holden. 3. The *estates* which may be acquired there- in. 4. Their *title*, or the means of acquiring and lo- sing them.

(3.) All the several *kinds* of things real are redu- cible to one of these three, viz. *lands*, *tenements*, or *he- reditaments*; whereof the second includes the first, and the third includes the first and second.

(4.) *Hereditaments*, therefore, or whatever may come to be inherited (being the most comprehensive deno- mination of things real), are either *corporeal* or *incor- poreal*.

(5.) *Corporeal* hereditaments consist wholly of *lands*, in their largest legal sense; wherein they include not only the face of the earth, but every other object of sense adjoining thereto, and subsisting either above or beneath it.

SECT. III. *Of incorporeal hereditaments.*

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(1.) INCORPOREAL hereditaments are rights issuing out of things corporeal, or concerning, or annexed to, or exercisable within the same:

(2.) Incorporeal hereditaments are, 1. *Advowsons*. 2. *Tithes*. 3. *Commons*. 4. *Ways*. 5. *Offices*. 6. *Dig- nities*. 7. *Franchises*. 8. *Corodies* or *pensions*. 9. *An- nuities*. 10. *Rents*.

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(3.) An *advowson* is a right of presentation to an ecclesiastical benefice; either appendant, or in gross. This may be, 1. Presentative. 2. Collative. 3. Donative.

(4.) *Tithes* are the tenth part of the increase yearly arising from the profits and stock of lands, and the personal industry of mankind. These, by the ancient and positive law of the land, are due of common right to the parson, or (by endowment) to the vicar; unless specially discharged, 1. By real composition. 2. By prescription, either *de modo decimandi*, or *de non decimando*.

(5.) *Common* is a profit which a man hath in the lands of another; being, 1. Common of pasture; which is either appendant, appurtenant, because of vicinage, or in gross. 2. Common of piscary. 3. Common of turbary. 4. Common of estovers, or botes.

(6.) *Ways* are a right of passing over another man's ground.

(7.) *Offices* are the right to exercise a public or private employment.

(8.) For *dignities*, which are titles of honour, see Chap. I. Sect. 12.

(9.) *Franchises* are a royal privilege, or branch of the king's prerogative, subsisting in the hands of a subject.

(10.) *Corodies* are allotments for one's sustenance; which may be converted into *pensions*, see Chap. I. Sect. 8.

(11.) An *annuity* is a yearly sum of money, charged upon the person, and not upon the lands of the granter.

(12.) *Rents* are a certain profit issuing yearly out of lands and tenements; and are reducible to, 1. Rent-service. 2. Rent-charge. 3. Rent-seck.

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SECT. IV. Of the Feodal System.

(1.) THE doctrine of *tenures* is derived from the *feodal* law; which was planted in Europe by its northern conquerors at the dissolution of the Roman empire.

(2.) Pure and *proper feuds* were parcels of land allotted by a chief to his followers, to be held on the condition of personally rendering due military service to their lord.

(3.) These were granted by investiture; were held under the bond of fealty; were inheritable only by descendants; and could not be transferred without the mutual consent of the lord and vassal.

(4.) *Improper feuds* were derived from the other; but differed from them in their original, their services and renders, their descent, and other circumstances.

(5.) The lands of England were converted into *feuds*, of the improper kind, soon after the Norman conquest; which gave rise to the grand maxim of tenure, viz. That all lands in the kingdom are *holden*, mediately or immediately, of the king.

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SECT. V. Of the ancient English Tenures.

(1.) THE distinction of tenures consisted in the nature of their services: as, 1. *Chivalry*, or *knight-service*; where the service was free, but uncertain. 2. *Free socage*; where the service was free, and certain. 3. *Pure villenage*; where the service was base, and uncertain.

4. *Privileged villenage*, or *villain socage*; where the service was base, but certain.

(2.) The most universal ancient tenure was that in *chivalry*, or by *knight-service*; in which the tenant of every knight's fee was bound, if called upon, to attend his lord to the wars. This was granted by livery, and perfected by homage and fealty; which usually drew after them suit of court.

(3.) The other fruits and consequences of the tenure by knight-service were, 1. Aid. 2. Relief. 3. Primer seisin. 4. Wardship. 5. Marriage. 6. Fines upon alienation. 7. Escheat.

(4.) *Grand serjeanty* differed from *chivalry* principally in its render, or service; and not in its fruits and consequences.

(5.) The personal service in *chivalry* was at length gradually changed into pecuniary assessments, which were called *scutage* or *escuage*.

(6.) These military tenures (except the services of *grand serjeanty*) were, at the restoration of King Charles, totally abolished, and reduced to free socage by act of parliament.

SECT. VI. Of the modern English Tenures.

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(1.) *FREE socage* is a tenure by any free, certain, and determinate service.

(2.) This tenure, the relic of Saxon liberty, includes *petit serjeanty*, tenure in *burgage*, and *gavelkind*.

(3.) Free socage lands partake strongly of the feodal nature, as well as those in *chivalry*: being holden; subject to some service, at the least to fealty and suit of court; subject to relief, to wardship, and to escheat, but not to marriage; subject also formerly to aids, primer seisin, and fines for alienation.

(4.) *Pure villenage* was a precarious and slavish tenure, at the absolute will of the lord, upon uncertain services of the basest nature.

(5.) From hence, by tacit consent or encroachment, have arisen the modern *copyholds*, or tenure by copy of court-roll; in which lands may be still held at the (nominal) will of the lord, (but regulated) according to the custom of the manor.

(6.) These are subject, like socage lands, to services relief, and escheat; and also to heriots, wardship, and fines upon descent and alienation.

(7.) *Privileged villenage*, or *villain socage*, is an exalted species of copyhold tenure, upon base, but certain, services; subsisting only in the ancient demesnes of the crown; whence the tenure is denominated the tenure in *ancient demesne*.

(8.) These copyholds of ancient demesne have divers immunities annexed to their tenure; but are still held by copy of court-roll, according to the custom of the manor, though not at the will of the lord.

(9.) *Frankalmoign* is a tenure by spiritual services at large, whereby many ecclesiastical and eleemosynary corporations now hold their lands and tenements; being of a nature distinct from tenure by divine service in certain.

SECT. VII. Of freehold estates of inheritance.

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(1.) ESTATES in lands, tenements, and hereditaments, are such interest as the tenant hath therein; to ascertain which, may be considered, 1. The quantity of

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of interest. 2. The time of enjoyment. 3. The number and connections of the tenants.

(2.) Estates, with respect to their quantity of interest, or duration, are either *freehold*, or *less than freehold*.

(3.) A *freehold* estate, in lands, is such as is created by livery of seisin at common law; or, in tenements of an incorporeal nature, by what is equivalent thereto.

(4.) Freehold estates are either estates of inheritance, or not of inheritance, viz. for life only: and inheritances are, 1. *Absolute*, or *fee simple*. 2. *Limited fees*.

(5.) Tenant in *fee simple* is he that hath lands, tenements, or hereditaments, to hold to him and his heirs for ever.

(6.) *Limited fees* are, 1. *Qualified*, or *base*, fees. 2. Fees conditional at the common law.

(7.) *Qualified* or *base* fees are those which, having a qualification subjoined thereto, are liable to be defeated when that qualification is at an end.

(8.) *Conditional* fees, at the common law, were such as were granted to the donee, and the heirs of his body, in exclusion of collateral heirs.

(9.) These were held to be fees, granted on condition that the donee had issue of his body; which condition being once performed by the birth of issue, the donee might immediately alienate the land: but the statute *de donis* being made to prevent such alteration, thereupon from the division of the fee (by construction of this statute) into a particular estate and a reversion, the conditional fees began to be called *fees-tail*.

(10.) All tenements real, or favouring of the realty, are subject to entails.

(11.) Estates tail may be, 1. general, or special; 2. male, or female; 3. given in frank marriage.

(12.) Incident to estates tail are, 1. Waste. 2. Dower. 3. Curtesy. 4. Bar;—by fine, recovery, or lineal warranty with assets.

(13.) Estates tail are now, by many statutes and resolutions of the courts, almost brought back to the state of conditional fees at the common law.

SECT. VIII. Of freeholds, not of inheritance.

(1.) FREEHOLDS, not of inheritance, or for life only, are, 1. *Conventional*, or created by the act of the parties. 2. *Legal*, or created by operation of law.

(2.) *Conventional* estates for life are created by an express grant for term of one's own life, or *pur autre vie*; or by a general grant, without expressing any term at all.

(3.) Incident to this, and all other estates for life, are estovers, and emblements: and to estates *pur autre vie* general occupancy was also incident; as special occupancy still is, if *cestuy que vie* survives the tenant.

(4.) *Legal* estates for life are, 1. Tenancy in tail, after possibility of issue extinct. 2. Tenancy by the curtesy of England. 3. Tenancy in dower.

(5.) Tenancy in tail, after possibility of issue extinct, is where an estate is given in special tail; and, before issue had, a person dies from whose body the issue was to spring; whereupon the tenant (if surviving) becomes tenant in tail, after possibility of issue extinct.

(6.) This estate partakes both of the incidents to an estate tail, and those of an estate for life.

(7.) Tenancy by the curtesy of England is where a man's wife is seised of an estate of inheritance; and he by her has issue, born alive, which was capable of inheriting her estate; in which case he shall, upon her death, hold the tenements for his own life, as tenant by the curtesy.

(8.) Tenancy in dower is where a woman's husband is seised of an estate of inheritance, of which her issue might by any possibility have been heir; and the husband dies: the woman is thereupon intitled to dower, or one third part of the lands and tenements, to hold for her natural life.

(9.) Dower is either by the common law; by special custom; *ad osium ecclesie*; or, *ex assensu patris*.

(10.) Dower may be forfeited or barred, particularly by an estate in jointure.

SECT. IX. Of estates less than freehold.

(1.) ESTATES less than freehold are, 1. Estates for years. 2. Estates at will. 3. Estates at sufferance.

(2.) An estate for years is where a man, seised of lands and tenements, letteth them to another for a certain period of time, which transfers the interest of the term; and the lessee enters thereon, which gives him possession of the term, but not legal seisin of the land.

(3.) Incident to this estate are estovers; and also emblements, if it determines before the full end of the term.

(4.) An estate at will is where lands are let by one man to another, to hold at the will of both parties; and the lessee enters thereon.

(5.) *Copyholds* are estates held at the will of the lord, (regulated) according to the custom of the manor.

(6.) An estate at sufferance is where one comes into possession of land by lawful title, but keeps it afterwards without any title at all.

SECT. X. Of estates upon condition.

(1.) ESTATES (whether freehold or otherwise) may also be held upon condition; in which case their existence depends on the happening, or not happening, of some uncertain event.

(2.) These estates are, 1. On condition implied. 2. On condition expressed. 3. Estates in gage. 4. Estates by statute, merchant or staple. 5. Estates by elegit.

(3.) Estates on condition implied are where a grant of an estate has, from its essence and constitution, a condition inseparably annexed to it; though none be expressed in words.

(4.) Estates on condition expressed are where an express qualification or provision is annexed to the grant of an estate.

(5.) On the performance of these conditions either expressed or implied (if precedent) the estate may be vested or enlarged; or, on the breach of them (if subsequent) an estate already vested may be defeated.

(6.) Estates in gage, in vadio, or in pledge, are estates granted as a security for money lent; being,

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1. *In vivo vadio*, or *living gage*; where the profits of land are granted till a debt be paid, upon which payment the grantor's estate will revive. 2. *In mortuo vadio*, in *dead*, or *mort gage*; where an estate is granted, on condition to be void at a day certain, if the grantor then repays the money borrowed; on failure of which, the estate becomes absolutely dead to the grantor.

(7.) Estates by *statute-merchant*, or *statute-staple*, are also estates conveyed to creditors, in pursuance of certain statutes, till their profits shall discharge the debt.

(8.) Estates by *elegit* are where, in consequence of a judicial writ so called, lands are delivered by the sheriff to a plaintiff, till their profits shall satisfy a debt adjudged to be due by law.

lxxiii. SECT. XI. *Of estates in possession, remainder, and reversion.*

(1.) ESTATES, with respect to their *time of enjoyment*, are either in immediate *possession*, or in *expectancy*; which estates in *expectancy* are created at the same time, and are parcel of the same estates, as those upon which they are expectant. These are, 1. *Remainders*. 2. *Reversions*.

(2.) A *remainder* is an estate limited to take effect, and be enjoyed, after another *particular* estate is determined.

(3.) Therefore, 1. There must be a precedent *particular* estate, in order to support a remainder. 2. The remainder must pass out of the grantor, at the creation of the *particular* estate. 3. The remainder must vest in the grantee, during the continuance, or at the determination, of the *particular* estate.

(4.) Remainders are, 1. *Vested*; where the estate is fixed to remain to a *certain* person, after the *particular* estate is spent. 2. *Contingent*; where the estate is limited to take effect, either to an *uncertain* person, or upon an *uncertain* event.

(5.) An *executory devise* is such a disposition of lands, by will, that an estate shall not vest thereby at the death of the deviser, but only upon some future contingency, and without any precedent *particular* estate to support it.

(6.) A *reversion* is the residue of an estate left in the grantor, to commence in possession after the determination of some *particular* estate granted: to which are incident *fealty*, and *rent*.

(7.) Where two estates, the one less, the other greater, the one in possession, the other in expectancy, meet together in one and the same person, and in one and the same right, the less is *merged* in the greater.

lxxiv. SECT. XII. *Of estates, in severalty, joint tenancy, coparcenary, and common.*

(1.) ESTATES, with respect to the *number and connections* of their *tenants*, may be held, 1. In *severalty*. 2. In *joint-tenancy*. 3. In *coparcenary*. 4. In *common*.

(2.) An estate in *severalty* is where one tenant holds it in his own sole right, without any other person being joined with him.

(3.) An estate in *joint-tenancy* is where an estate is granted to two or more persons; in which case the law construes them to be *joint-tenants*, unless the words of the grant expressly exclude such construction.

(4.) Joint-tenants have an unity of interest, of title, of time, and of possession: they are seised *per my & per tout*: and therefore upon the decease of one joint-tenant, the whole interest remains to the survivor.

(5.) Joint-tenancy may be dissolved, by destroying one of its four constituent unities.

(6.) An estate in *coparcenary* is where an estate of inheritance descends from the ancestor to two or more persons; who are called *parceners*, and all together make but one heir.

(7.) Parceners have an unity of interest, title, and possession; but are only seised *per my*, and not *per tout*: wherefore there is no survivorship among parceners.

(8.) Incident to this estate is the law of *hotchpot*.

(9.) Coparcenary may also be dissolved, by destroying any of its three constituent unities.

(10.) An estate in *common* is where two or more persons hold lands, possibly by distinct titles, and for distinct interests; but by unity of possession, because none knoweth his own severalty.

(11.) Tenants in common have therefore an unity of possession, (without survivorship; being seised *per my*, and not *per tout*;) but no necessary unity of title, time, or interest.

(12.) This estate may be created, 1. By dissolving the constituent unities of the two former; 2. By express limitation in a grant: and may be destroyed, 1. By uniting the several titles in one tenant; 2. By partition of the land.

SECT. XIII. *Of the title to things real, in general.*

lxxv.

(1.) A *title* to things real is the means whereby a man cometh to the just possession of his property.

(2.) Herein may be considered, 1. A mere or naked possession. 2. The right of possession; which is, *1st*, an apparent, *2dly*, an actual right. 3. The mere right of property. 4. The conjunction of actual possession with both these rights; which constitutes a perfect title.

SECT. XIV. *Of title by descent.*

lxxvi.

(1.) THE *title* to things real may be reciprocally acquired or lost, 1. By *descent*. 2. By *purchase*.

(2.) *Descent* is the means whereby a man, on the death of his ancestor, acquires a title to his estate, in right of representation, as his *heir* at law.

(3.) To understand the doctrine of descents, we must form a clear notion of *consanguinity*; which is the connection, or relation, of persons descended from the same stock or common ancestor; and it is, 1. *Lineal*, where one of the kinsmen is lineally descended from the other. 2. *Collateral*, where they are lineally descended, not one from the other, but both from the same common ancestor.

(4.) The rules of descent, or *canons*, of inheritance, observed by the laws of England, are these:

1st, Inheritances shall lineally descend to the issue of the

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the person last actually seised, *in infinitum*; but shall never lineally *ascend*.

2d, The *male* issue shall be admitted before the *female*.

3d, Where there are two or more males in equal degree, the *eldest* only shall inherit; but the females *all* together.

4th, The lineal descendants, *in infinitum*, of any person deceased shall *represent* their ancestor; that is, shall stand in the same place as the person himself would have done, had he been living.

5th, On failure of *lineal* descendants, or issue, of the person last seised, the inheritance shall descend to the blood of the *first purchaser*; subject to the three preceding rules. To evidence which blood, the two following rules are established.

6th, The collateral heir of the person last seised must be his next collateral kinsman, of the *whole* blood.

7th, In collateral inheritances, the *male stocks* shall be preferred to the *female*; that is, kindred derived from the blood of the male ancestors shall be admitted before those from the blood of the female: unless where the lands have, in fact, descended from a female.

lxxvii. SECT. XV. *Of title by purchase, and first by escheat.*

(1.) PURCHASE, or perquisition, is the possession of an estate which a man hath by his own act or agreement; and not by the mere act of law, or descent from any of his ancestors. This includes, 1. *Escheat*. 2. *Occupancy*. 3. *Prescription*. 4. *Forfeiture*. 5. *Alienation*.

(2.) *Escheat* is where, upon deficiency of the tenant's *inheritable blood*, the estate falls to the lord of the fee.

(3.) *Inheritable blood* is wanting to, 1. Such as are not related to the person last seised. 2. His maternal relations in paternal inheritances, and *vice versa*. 3. His kindred of the half blood. 4. Monsters. 5. Bastards. 6. Aliens, and their issue. 7. Persons attainted of treason or felony. 8. Papists, in respect of themselves only, by the statute law.

lxxviii. SECT. XVI. *Of title by occupancy.*

(1.) OCCUPANCY is the taking possession of those things which before had no owner.

(2.) Thus, at the common law, where tenant *pur auter vie* died during the life of *cestuy que vie*, he, who could first enter, might lawfully retain the possession; unless by the original grant the heir was made a *special* occupant.

(3.) The law of *derelictions* and *alluvions* has narrowed the title by occupancy.

lxxix. SECT. XVII. *Of title by prescription.*

(1.) PRESCRIPTION (as distinguished from *custom*) is a *personal* immemorial usage of enjoying a right in some incorporeal hereditament, by a man, and either his ancestors or those whose estate of inheritance he hath: of which the first is called *prescribing in his ancestors*, the latter in a *que estate*.

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SECT. XVIII. *Of title by forfeiture.*

(1.) FORFEITURE is a punishment annexed by law to some illegal act, or negligence, in the owner of things real; whereby the estate is transferred to another, who is usually the party injured.

(2.) Forfeitures are occasioned, 1. By *crimes*. 2. By *alienation*, contrary to law. 3. By *lapse*. 4. By *simony*. 5. By *nonperformance of conditions*. 6. By *waste*. 7. By *breach of copyhold customs*. 8. By *bankruptcy*.

(3.) Forfeitures for *crimes*, or misdemeanors, are for, 1. Treason. 2. Felony. 3. Misprision of treason. 4. *Premunire*. 5. Assaults on a judge, and batteries, sitting the courts. 6. Popish recusancy, &c.

(4.) *Alienations*, or conveyances, which induce a forfeiture, are, 1. Those in mortmain, made to corporations contrary to the statute law. 2. Those made to aliens. 3. Those made by particular tenants, when larger than their estates will warrant.

(5.) *Lapse* is a forfeiture of the right of presentation to a vacant church, by neglect of the patron to present within six calendar months.

(6.) *Simony* is the corrupt presentation of any one to an ecclesiastical benefice, whereby that turn becomes forfeited to the crown.

(7.) For forfeiture by *nonperformance of conditions*, see Sect. 10.

(8.) *Waste* is a spoil, or destruction, in any corporeal hereditaments, to the prejudice of him that hath the inheritance.

(9.) *Copyhold* estates may have also other peculiar causes of forfeiture, according to the custom of the manor.

(10.) *Bankruptcy* is the act of becoming a *bankrupt*; that is, a trader who secretes himself, or does certain other acts tending to defraud his creditors, (See Sect. 22.)

(11.) By bankruptcy all the estates of the bankrupt are transferred to the assignees of his commissioners, to be sold for the benefit of his creditors.

SECT. XIX. *Of title by alienation.*

lxxxii.

(1.) ALIENATION, conveyance, or purchase in its more limited sense, is a means of transferring real estates, wherein they are voluntarily resigned by one man, and accepted by another.

(2.) This formerly could not be done by a tenant, without *licence* from his lord; nor by a lord, without *attornment* of his tenant.

(3.) All persons are *capable* of purchasing; and all that are in possession of any estates, are *capable* of conveying them: unless under peculiar disabilities by law; as being attainted, *non compos*, infants, under duress, feme-coverts, aliens, or papists.

(4.) Alienations are made by *common assurances*; which are, 1. By *deed*, or matter in *pais*. 2. By matter of *record*. 3. By *special custom*. 4. By *devise*.

SECT. XX. *Of alienation by deed.*

lxxxiii.

(1.) IN assurances by *deed* may be considered, 1. Its *general nature*. 2. Its *several species*.

(2.) A deed, in *general*, is the solemn act of the parties;

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parties; being usually a writing sealed and delivered; and it may be, 1. A deed indented, or indenture. 2. A deed poll.

(3.) The *requisites* of a deed are, 1. Sufficient parties, and proper subject-matter. 2. A good and sufficient consideration. 3. Writing on paper, or parchment, duly stamped. 4. Legal and orderly parts: (which are usually, 1st, the premises; 2dly, the *habendum*; 3dly, the *tenendum*; 4thly, the *reddendum*; 5thly, the conditions; 6thly, the warranty, which is either lineal or collateral; 7thly, the covenants; 8thly, the conclusion, which includes the date). 5. Reading it, if desired. 6. Sealing, and, in many cases, signing it also. 7. Delivery. 8. Attestation.

(4.) A deed may be avoided, 1. By the want of any of the requisites before-mentioned. 2. By subsequent matter; as, 1st, Rasure, or alteration. 2dly, Defacing its seal. 3dly, Cancelling it. 4thly, Disagreement of those whose consent is necessary. 5thly, Judgment of a court of justice.

(5.) Of the several species of deeds, some serve to convey real property, some only to charge and discharge it.

(6.) Deeds which serve to convey real property, or conveyances, are either by common law, or by statute. And, of conveyances by common law, some are original or primary, others derivative or secondary.

(7.) Original conveyances are, 1. Feoffments. 2. Gifts. 3. Grants. 4. Leases. 5. Exchanges. 6. Partitions. Derivative are, 7. Releases. 8. Confirmations. 9. Surrenders. 10. Assignments. 11. Defeazances.

(8.) A *feoffment* is the transfer of any corporeal hereditament to another, perfected by livery of seisin, or delivery of bodily possession from the feoffer to the feoffee; without which no freehold estate therein can be created at common law.

(9.) A *gift* is properly the conveyance of lands in tail.

(10.) A *grant* is the regular method, by common law, of conveying incorporeal hereditaments.

(11.) A *lease* is the demise, granting, or letting to farm of any tenement, usually for a less term than the lessor hath therein; yet sometimes possibly for a greater; according to the regulations of the restraining and enabling statutes.

(12.) An *exchange* is the mutual conveyance of equal interests, the one in consideration of the other.

(13.) A *partition* is the division of an estate held in joint-tenancy, in coparcenary, or in common, between the respective tenants; so that each may hold his distinct part in severalty.

(14.) A *release* is the discharge or conveyance of a man's right, in lands and tenements, to another that hath some former estate in possession therein.

(15.) A *confirmation* is the conveyance of an estate or right in esse, whereby a voidable estate is made sure, or a particular estate is increased.

(16.) A *surrender* is the yielding up of an estate for life, or years, to him that hath the immediate remainder or reversion; wherein the particular estate may merge.

(17.) An *assignment* is the transfer, or making over to another, of the whole right one has in any estate; but usually in a lease, for life or years.

(18.) A *defeazance* is a collateral deed, made at the same time with the original conveyance; contain-

ing some condition, upon which the estate may be defeated.

(19.) Conveyances by statute depend much on the doctrine of *uses* and *trusts*: which are a confidence reposed in the *terre tenant*, or tenant of the land, that he shall permit the profits to be enjoyed, according to the directions of *cestuy que use*, or *cestuy que trust*.

(20.) The statute of uses, having transferred all uses into actual possession, (or, rather, having drawn the possession to the use), has given birth to divers other species of conveyance: 1. A *covenant* to stand seised to use. 2. A *bargain and sale*, enrolled. 3. A *lease and release*. 4. A deed to lead or declare the use of other more direct conveyances. 5. A *revocation of uses*; being the execution of a power, reserved at the creation of the use, of recalling at a future time the use or estate so creating. All which owe their present operation principally to the statute of uses.

(21.) Deeds which do not convey, but only charge real property, and discharge it, are, 1. *Obligations*. 2. *Recognizances*. 3. *Defeazances* upon both.

SECT. XXI. Of alienation by matter of record.

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(1.) ASSURANCES by matter of record are where the sanction of some court of record is called in, to substantiate and witness the transfer of real property. These are, 1. *Private acts of parliament*. 2. The king's grants. 3. *Fines*. 4. *Common recoveries*.

(2.) *Private acts of parliament* are a species of assurances, calculated to give (by the transcendent authority of parliament) such reasonable powers or relief as are beyond the reach of the ordinary course of law.

(3.) The king's grants, contained in charters or letters patent, are all entered on record, for the dignity of the royal person, and security of the royal revenue.

(4.) A *fine* (sometimes said to be a feoffment of record) is an amicable composition and agreement of an actual, or fictitious, suit; whereby the estate in question is acknowledged to be the right of one of the parties.

(5.) The parts of a fine are, 1. The writ of covenant. 2. The licence to agree. 3. The concord. 4. The note. 5. The foot. To which the statute hath added, 6. Proclamations.

(6.) Fines are of four kinds: 1. *Sur cognizance de droit, come ceo que il ad de son done*. 2. *Sur cognizance de droit tantum*. 3. *Sur concessit*. 4. *Sur done, grant, et render*; which is a double fine.

(7.) The force and effect of fines (when levied by such as have themselves any interest in the estate) are to assure the lands in question to the cognizee, by barring the respective rights of parties, privies, and strangers.

(8.) A common recovery is by an actual, or fictitious, suit or action for land, brought against the tenant of the freehold; who thereupon vouches another, who undertakes to warrant the tenant's title: but, upon such vouchee's making default, the land is recovered by judgment at law against the tenant; who, in return, obtains judgment against the vouchee to recover lands of equal value in recompense.

(9.) The force and effect of a recovery are to assure lands

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lands to the recoverer, by barring estates tail, and all remainders and reversions expectant thereon; provided the tenant in tail either suffers, or is vouched in, such recovery.

(10.) The *uses* of a fine or recovery may be directed by, 1. Deeds to *lead* such uses; which are made previous to the levying or suffering them. 2. Deeds to *declare* the uses; which are made subsequent.

lxxiv. SECT. XXII. *Of alienation by special custom.*

(1.) ASSURANCES by special *custom* are confined to the transfer of *copyhold* estates.

(2.) This is effected by, 1. *Surrender* by the tenant into the hands of the lord to the use of another, according to the custom of the manor. 2. *Presentment*, by the tenants or homage, of such surrender. 3. *Admittance* of the surrenderee by the lord, according to the uses expressed in such surrender.

(3.) *Admittance* may also be had upon original grants to the tenant from the lord, and upon *descents* to the heir from the ancestor.

lxxv. SECT. XXIII. *Of alienation by devise.*

(1.) DEVISE is a disposition of lands and tenements, contained in the last will and testament of the owner.

(2.) This was not permitted by the common law, as it stood since the conquest; but was introduced by the statute law, under Henry VIII. since made more universal by the statute of tenures under Charles II. with the introduction of additional solemnities by the statute of frauds and perjuries in the same reign.

(3.) The *construction* of all common assurances should be, 1. Agreeable to the intention. 2. To the words of the parties. 3. Made upon the entire deed. 4. Bearing strongest against the contractor. 5. Conformable to law. 6. Rejecting the latter of two totally repugnant clauses in a deed, and the former in a will. 7. Most favourable in case of a devise.

lxxvi. SECT. XXIV. *Of things personal.*

(1.) THINGS *personal* are comprehended under the general name of *chattels*; which includes whatever wants either the duration, or the immobility, attending things real.

(2.) In these are to be considered, 1. Their *distribution*. 2. The *property* of them. 3. The *title* to that property.

(3.) As to the *distribution* of chattels, they are, 1. Chattels *real*. 2. Chattels *personal*.

(4.) Chattels *real* are such quantities of interest, in things *immoveable*, as are short of the duration of freeholds; being limited to a time certain, beyond which they cannot subsist. (See Sect. 7.)

(5.) Chattels *personal* are things *moveable*; which may be transferred from place to place, together with the person of the owner.

lxxvii. SECT. XXV. *Of property in things personal.*

(1.) PROPERTY, in chattels personal, is either in *possession*, or in *action*.

(2.) Property in *possession*, where a man has the actual enjoyment of the thing, is, 1. *Absolute*. 2. *Qualified*.

(3.) *Absolute* property is where a man has such an exclusive right in the thing, that it cannot cease to be his, without his own act or default.

(4.) *Qualified* property is such as is not, in its nature, permanent; but may sometimes subsist, and at other times not subsist.

(5.) This may arise, 1. Where the subject is incapable of absolute ownership. 2. From the peculiar circumstances of the owners.

(6.) Property in *action*, is where a man hath not the actual *occupation* of the thing; but only a *right* to it, arising upon some contract, and recoverable by an action at law.

(7.) The property of chattels personal is liable to remainders, expectant on estates for life; to joint-tenancy; and to tenancy in common.

SECT. XXVI. *Of title to things personal by occupancy.*

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(1.) THE *title* to things personal may be acquired or lost by, 1. *Occupancy*. 2. *Prerogative*. 3. *Forfeiture*. 4. *Custom*. 5. *Succession*. 6. *Marriage*. 7. *Judgment*. 8. *Gift*, or *grant*. 9. *Contract*. 10. *Bankruptcy*. 11. *Testament*. 12. *Administration*.

(2.) Occupancy still gives the first occupant a right to those few things which have no legal owner, or which are incapable of permanent ownership. Such as, 1. Goods of alien enemies. 2. Things found. 3. The benefit of the elements. 4. Animals *feræ naturæ*. 5. Emblements. 6. Things gained by accession; or, 7. By confusion. 8. Literary property.

SECT. XXVII. *Of title by prerogative, and forfeiture.*

lxxix.

(1.) By *prerogative* is vested in the crown, or its grantees, the property of the royal revenue, (see Chap. I. Sect. 8.); and also the property of all game in the kingdom, with the right of pursuing and taking it.

(2.) By *forfeiture*, for crimes and misdemeanors, the right of goods and chattels may be transferred from one man to another; either in part or totally.

(3.) Total forfeitures of goods arise from conviction of, 1. Treason, and misprison thereof. 2. Felony. 3. Excusable homicide. 4. Outlawry for treason or felony. 5. Flight. 6. Standing mute. 7. Assaults on a judge; and batteries, sitting the courts. 8. *Præmunice*. 9. Pretended prophecies. 10. Owling. 11. Residing abroad of artificers. 12. Challenges to fight, for debts at play.

SECT. XXVIII. *Of title by custom.*

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(1.) By *custom*, obtaining in particular places, a right may be acquired in chattels: the most usual of which customs are those relating to, 1. *Heriots*. 2. *Mortuaries*. 3. *Heir-looms*.

(2.) *Heriots* are either *heriot-service*, which differs little from a rent; or *heriot-custom*, which is a customary tribute, of goods and chattels, payable to the lord of the fee on the decease of the owner of lands.

(3.) *Mortuaries* are a customary gift, due to the minister in many parishes, on the death of his parishioners.

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(4.) *Heir-looms* are such personal chattels, as descend by special custom to the heir, along with the inheritance of his ancestor.

xcii. SECT. XXIX. *Of title by succession, marriage, and judgment.*

(1.) By *succession* the right of chattels is vested in corporations *aggregate*; and likewise in such corporations *sole* as are the heads and representatives of bodies *aggregate*.

(2.) By *marriage* the chattels real and personal of the wife are vested in the husband, in the same degree of property, and with the same powers, as the wife when sole had over them; provided he reduces them to possession.

(3.) The wife also acquires, by *marriage*, a property in her own *paraphernalia*.

(4.) By *judgment*, consequent on a suit at law, a man may in some cases, not only *recover*, but originally *acquire*, a right to personal property. As, 1. To penalties recoverable by action popular. 2. To damages. 3. To costs of suit.

xciii. SECT. XXX. *Of title by gift, grant, and contract.*

(1.) A *gift*, or *grant*, is a voluntary conveyance of a chattel personal in possession, without any consideration or equivalent.

(2.) A *contract* is an agreement, upon sufficient consideration, to do or not to do a particular thing: and, by such contract, any personal property (either in possession or in action) may be transferred.

(3.) Contracts may either be express or implied; either executed or executory.

(4.) The *consideration* of contracts is, 1. A good consideration. 2. A valuable consideration; which is, 1. *Do, ut des.* 2. *Facio, ut facias.* 3. *Facio, ut des.* 4. *Do, ut facias.*

(5.) The most usual *species* of personal contracts are, 1. *Sale* or *exchange*. 2. *Bailment*. 3. *Hiring* or *borrowing*. 4. *Debt*.

(6.) *Sale* or *exchange* is a transmutation of property from one man to another, in consideration of some recompense in value.

(7.) *Bailment* is the delivery of goods in trust; upon a contract, express or implied, that the trust shall be faithfully performed by the bailee.

(8.) *Hiring* or *borrowing* is a contract, whereby the possession of chattels is transferred for a particular time, on condition that the identical goods (or sometimes their value) be restored at the time appointed: together with (in case of *hiring*) a stipend or price for the use.

(9.) This price, being calculated to answer the hazard as well as inconvenience of lending, gives birth to the doctrine of *interest*, or *usury*, upon loans; and, consequently, to the doctrine of *bottomry* or *respondentia*, and *insurance*.

(10.) *Debt* is any contract, whereby a certain sum of money becomes due to the creditor. This is, 1. A debt of *record*. 2. A debt upon *special* contract. 3. A debt upon *simple* contract; which last includes paper credit, or bills of exchange, and promissory notes.

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SECT. XXXI. *Of title by bankruptcy.*

(1.) BANKRUPTCY (as defined in Sect. 18.) is the act of becoming a bankrupt.

(2.) Herein may be considered, 1. Who may become a bankrupt. 2. The *acts* whereby he may become a bankrupt. 3. The *proceedings* on a commission of bankrupt. 4. How his *property* is transferred thereby.

(3.) Persons of full age, *using* the *trade* of merchandize, by buying, and selling, and seeking their livelihood thereby, are liable to become bankrupts; for debts of a sufficient amount.

(4.) A trader, who endeavours to avoid his creditors, or evade their just demands, by any of the ways specified in the several statutes of bankruptcy, doth thereby commit an *act* of bankruptcy.

(5.) The *proceedings* on a commission of bankrupt, so far as they affect the bankrupt himself, are principally by, 1. *Petition*. 2. *Commission*. 3. *Declaration* of bankruptcy. 4. *Choice* of assignees. 5. The bankrupt's *surrender*. 6. His *examination*. 7. His *discovery*. 8. His *certificate*. 9. His *allowance*. 10. His *indemnity*.

(6.) The *property* of a bankrupt's personal estate is, immediately upon the act of bankruptcy, vested by construction of law in the assignees: and they, when they have collected, distribute the whole by equal dividends among all the creditors.

SECT. XXXII. *Of title by testament, and administration.*

(1.) CONCERNING *testaments* and *administrations*, considered jointly, are to be observed, 1. Their *original* and *antiquity*. 2. *Who* may make a testament. 3. Its *nature* and *incidents*. 4. What are *executors* and *administrators*. 5. Their *office* and *duty*.

(2.) *Testaments* have subsisted in England immemorially; whereby the deceased was at liberty to dispose of his personal estate, reserving anciently to his wife and children their *reasonable part* of his effects.

(3.) The goods of *intestates* belonged anciently to the king; who granted them to the prelates to be disposed in pious uses: but, on their abuse of this trust in the times of popery, the legislature compelled them to delegate their power to *administrators* expressly provided by law.

(4.) *All* persons may make a testament unless disabled by, 1. Want of discretion. 2. Want of free-will. 3. Criminal conduct.

(5.) *Testaments* are the legal declaration of a man's intentions, which he wills to be performed after his death. These are, 1. *Written*. 2. *Nuncupative*.

(6.) An *executor* is he, to whom a man by his will commits the execution thereof.

(7.) *Administrators* are, 1. *Durante minore etate* of an infant executor or administrator; or *durante absentia*; or *pendente lite*. 2. *Cum testamento annexo*; when no executor is named, or the executor refuses to act. 3. *General administrators*; in pursuance of the statutes of Edward III. and Henry VIII. 4. *Administrators de bonis non*; when a former executor or administrator dies without completing his trust.

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(8.) The office and duty of executors (and, in many points, of administrators also), are, 1. To bury the deceased. 2. To prove the will, or take out administration. 3. To make an inventory. 4. To collect the goods and chattels. 5. To pay debts; observing the rules of priority. 6. To pay legacies, either general or specific; if they be vested, and not lapsed. 7. To distribute the undivided surplus, according to the statute of distributions.

CHAP. III.

OF PRIVATE WRONGS.

xcv. SECT. I. *Of the redress of private wrongs, by the mere act of the parties.*

(1.) **W**RONGS are the privation of right; and are, 1. Private. 2. Public.

(2.) Private wrongs, or civil injuries, are an infringement, or privation, of the civil rights of individuals, considered as individuals.

(3.) The redress of civil injuries is one principal object of the laws of England.

(4.) This redress is effected, 1. By the mere act of the parties. 2. By the mere operation of law. 3. By both together, or suit in courts.

(5.) Redress, by the mere act of the parties, is that which arises, 1. From the sole act of the party injured. 2. From the joint act of all the parties.

(6.) Of the first sort are, 1. Defence of one's self, or relations. 2. Recaption of goods. 3. Entry on lands and tenements. 4. Abatement of nuisances. 5. Distress; for rent, for suit or service, for amercements, for damage, or for divers statutable penalties;—made of such things only as are legally distrainable;—and taken and disposed of according to the due course of law. 6. Seising of heriots, &c.

(7.) Of the second sort are, 1. Accord. 2. Arbitration.

xcvi. SECT. II. *Of redress by the mere operation of law.*

REDRESS, effected by the mere operation of law, is, 1. In the case of *retainer*; where a creditor is executor or administrator, and is thereupon allowed to retain his own debt. 2. In the case of *remitter*; where one, who has a good title to lands, &c. comes into possession by a bad one, and is thereupon remitted to his ancient good title, which protects his ill-acquired possession.

xcvii. SECT. III. *Of courts in general.*

(1.) REDRESS, that is effected by the act both of law and of the parties, is by suit or action in the courts of justice.

(2.) Herein may be considered, 1. The courts themselves. 2. The cognizance of wrongs or injuries therein. And, of courts, 1. Their nature and incidents. 2. Their several species.

(3.) A court is a place wherein justice is judicially administered, by officers delegated by the crown; being a court either of record, or not of record.

(4.) Incident to all courts are a plaintiff, defendant, and judge: and, with us, there are also usually attor-

neys; and advocates or counsel, viz. either barristers or serjeants at law.

SECT. IV. *Of the public courts of common law and equity.*

(1.) COURTS of justice, with regard to their several species, are, 1. Of a public, or general, jurisdiction throughout the realm. 2. Of a private, or special, jurisdiction.

(2.) Public courts of justice are, 1. The courts of common law and equity. 2. The ecclesiastical courts. 3. The military courts. 4. The maritime courts.

(3.) The general and public courts of common law and equity are, 1. The court of piepoudre. 2. The court-baron. 3. The hundred court. 4. The county court. 5. The court of common pleas. 6. The court of king's bench. 7. The court of exchequer. 8. The court of chancery. (Which two last are courts of equity as well as law). 9. The courts of exchequer-chamber. 10. The house of peers. To which may be added, as auxiliaries, 11. The courts of assize and nisi prius.

SECT. V. *Of courts ecclesiastical, military, and maritime.*

(1.) ECCLESIASTICAL courts (which were separated from the temporal by William the Conqueror), or courts Christian, are, 1. The court of the archdeacon. 2. The court of the bishop's consistory. 3. The court of arches. 4. The court of peculiars. 5. The prerogative court. 6. The court of delegates. 7. The court of review.

(2.) The only permanent military court is that of chivalry; the courts martial, annually established by act of parliament, being only temporary.

(3.) Maritime courts are, 1. The court of admiralty and vice-admiralty. 2. The court of delegates. 3. The lords of the privy council, and others, authorised by the king's commission, for appeals in prize-causes.

SECT. VI. *Of courts of a special jurisdiction.*

COURTS of a special or private jurisdiction are, 1. The forest courts; including the courts of attachments, regard, swienmote, and justice seat. 2. The court of commissioners of sewers. 3. The court of policies of assurance. 4. The court of the marshalsea and the palace court. 5. The courts of the principality of Wales. 6. The court of the duchy chamber of Lancaster. 7. The courts of the counties palatine, and other royal franchises. 8. The stannery courts. 9. The courts of London, and other corporations:—To which may be referred the courts of requests or courts of conscience; and the modern regulations of certain courts baron and county courts. 10. The courts of the two universities.

SECT. VII. *Of the cognizance of private wrongs.*

(1.) ALL private wrongs or civil injuries are cognisable either in the courts ecclesiastical, military, maritime, or those of common law.

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(2.) Injuries cognisable in the ecclesiastical courts are, 1. *Pecuniary*. 2. *Matrimonial*. 3. *Testamentary*.

(3.) *Pecuniary* injuries, here cognisable, are, 1. *Subtraction of tithes*. For which the remedy is by suit to compel their payment, or an equivalent; and also their double value. 2. *Nonpayment of ecclesiastical dues*. Remedy: by suit for payment. 3. *Spoliation*. Remedy: by suit for restitution. 4. *Dilapidations*. Remedy: by suit for damages. 5. *Non-repair of the church, &c.*; and *non-payment of church-rates*. Remedy: by suit to compel them.

(4.) *Matrimonial* injuries are, 1. *Facilitation of marriage*. Remedy: by suit for perpetual silence. 2. *Subtraction of conjugal rights*. Remedy: by suit for restitution. 3. *Inability for the marriage state*. Remedy: by suit for divorce. 4. *Refusal of decent maintenance to the wife*. Remedy: by suit for alimony.

(5.) *Testamentary* injuries are, 1. *Disputing the validity of wills*. Remedy: by suit to establish them. 3. *Obstrueting of administrations*. Remedy: by suit for the granting them. 3. *Subtraction of legacies*. Remedy: by suit for the payment.

(6.) The course of proceedings herein is much conformed to the civil and canon law: but their only compulsive process is that of excommunication; which is enforced by the temporal writ of *significavit*, or *de excommunicato capiendo*.

(7.) Civil injuries, cognisable in the court *military*, or court of chivalry, are, 1. Injuries in point of *honour*. Remedy: by suit for honourable amends. 2. *Encroachments in coat-armour, &c.* Remedy: by suit to remove them. The proceedings are in a summary method.

(8.) Civil injuries cognisable in the courts *maritime*, are injuries, in their nature of common-law cognisance, but arising wholly upon the sea, and not within the precincts of any county. The proceedings are herein also much conformed to the civil law.

(9.) All other injuries are cognisable only in the courts of *common law*: of which in the remainder of this chapter.

(10.) Two of them are, however, commissible by these and other inferior courts; *viz.* 1. *Refusal, or neglect, of justice*. Remedies: by writ of *procedendo*, or *mandamus*. 2. *Encroachment of jurisdiction*. Remedy: by writ of prohibition.

cii. SECT. VIII. Of wrongs, and their remedies, respecting the rights of persons.

(1.) In treating of the cognisance of injuries by the courts of *common law*, may be considered, 1. The injuries themselves, and their respective remedies. 2. The pursuit of those remedies in the several courts.

(2.) Injuries between subject and subject, cognisable by the courts of *common law*, are in general remedied by putting the party injured into possession of that right whereof he is unjustly deprived.

(3.) This is effected, 1. By *delivery of the thing* detained to the rightful owner. 2. Where that remedy is either impossible or inadequate, by giving the party injured a *satisfaction in damages*.

(4.) The instruments, by which these remedies may be obtained, are *suits or actions*; which are defined to

be the legal demand of one's right: and these are, 1. *Personal*. 2. *Real*. 3. *Mixed*.

(5.) Injuries (whereof some are with, others without, *force*) are, 1. Injuries to the rights of *persons*. 2. Injuries to the rights of *property*. And the former are, 1. Injuries to the *absolute*. 2. Injuries to the *relative*, rights of persons.

(6.) The *absolute* rights of individuals are, 1. *Personal security*. 2. *Personal liberty*. 3. *Private property*: (See Chap. I. Sect. 1.). To which the injuries must be correspondent.

(7.) Injuries to *personal security* are, 1. Against a man's *life*. 2. Against his *limbs*. 3. Against his *body*. 4. Against his *health*. 5. Against his *reputation*.—The first must be referred to the next chapter.

(8.) Injuries to the *limbs and body*, are, 1. *Threats*. 2. *Affault*. 3. *Battery*. 4. *Wounding*. 5. *Mayhem*. Remedy: by action of trespass, *vi et armis*; for damages.

(9.) Injuries to *health*, by any unwholesome practices, are remedied by a special action of trespass, on the case; for damages.

(10.) Injuries to *reputation* are, 1. *Slandorous and malicious words*. Remedy: by action on the case; for damages. 2. *Libels*. Remedy: the same. 3. *Malicious prosecutions*. Remedy: by action of conspiracy, or on the case; for damages.

(11.) The sole injury to *personal liberty* is *false imprisonment*. Remedies: 1. By writ of, 1st, *Mainprize*; 2dly, *Odio et atia*; 3dly, *Honore replegiando*. 4thly, *Habeas corpus*; to remove the wrong. 2. By action of trespass; to recover damages.

(12.) For injuries to *private property*, see the next section.

(13.) Injuries to *relative* rights affect, 1. *Husbands*. 2. *Parents*. 3. *Guardians*. 4. *Masters*.

(14.) Injuries to an *husband* are, 1. *Abduction*, or taking away his wife. Remedy: by action of trespass, *de uxore rapta et abducta*; to recover possession of his wife, and damages. 2. *Criminal conversation with her*. Remedy: by action on the case; for damages. 3. *Beating her*. Remedy: by action on the case, *per quod consortium amisit*; for damages.

(15.) The only injury to a *parent or guardian* is the *abduction* of their children or wards. Remedy: by action of trespass, *de filiis, vel custodiis, raptis vel abductis*; to recover possession of them, and damages.

(16.) Injuries to a *master* are, 1. *Retaining his servants*. Remedy: by action on the case; for damages. 2. *Beating them*. Remedy: by action on the case, *per quod servitium amisit*; for damages.

SECT. IX. Of injuries to personal property.

(1.) INJURIES to the rights of *property* are either to those of *personal* or *real* property.

(2.) *Personal* property is either in *possession* or in *action*.

(3.) Injuries to *personal* property in *possession* are, 1. By *dispossession*. 2. By *damage*, while the owner remains in possession.

(4.) *Dispossession* may be effected, 1. By an *unlawful taking*. 2. By an *unlawful detaining*.

(5.) For the *unlawful taking* of goods and chattels *personal*,

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personal, the remedy is, 1. Actual restitution, which (in case of a wrongful distress) is obtained by action of replevin. 3. Satisfaction in damages: 1st, in case of *rescous*, by action of *rescous*, poundbreach, or on the case; 2^{dly}, in case of other unlawful takings, by action of trespass or trover.

(6.) For the unlawful *detaining* of goods lawfully taken, the remedy is also, 1. Actual restitution; by action of replevin or detinue. 2. Satisfaction in damages: by action on the case, for trover and conversion.

(7.) For *damage* to personal property, while in the owner's possession, the remedy is in damages; by action of trespass *vi et armis*, in case the act be immediately injurious; or by action of trespass on the case, to redress consequential damage.

(8.) Injuries to personal property, in *action*, arise by breach of *contracts*, 1. *Express*. 2. *Implied*.

(9.) Breaches of *express* contracts are, 1. By *non-payment* of *debts*. Remedy: 1st, Specific payment; recoverable by action of debt. 2^{dly}, Damages for non-payment; recoverable by action on the case. 2. By *nonperformance* of *covenants*. Remedy: by action of covenant, 1st, to recover damages, in covenants personal; 2^{dly}, to compel performance, in covenants real. 3. By *nonperformance* of *promises*, or *assumpsits*. Remedy: by action on the case; for damages.

(10.) *Implied* contracts are such as arise, 1. From the nature and constitution of *government*. 2. From *reason* and the construction of law.

(11.) Breaches of contracts, implied in the nature of *government*, are by the *nonpayment* of money which the laws have directed to be paid. Remedy: by action of debt (which, in such cases, is frequently a *popular*, frequently a *qui tam*, action); to compel the specific payment;—or, sometimes, by action on the case; for damages.

(12.) Breaches of contracts, implied in *reason* and construction of law, are by the *nonperformance* of legal presumptive *assumpsits*: for which the remedy is in damages; by an action on the case on the implied *assumpsits*, 1. Of a *quantum meruit*. 2. Of a *quantum valebat*. 3. Of money expended for another. 4. Of receiving money to another's use. 5. Of an *infirmul computassent*, on an account stated (the remedy on an account unstated being by action of account). 6. Of performing one's duty, in any employment, with integrity, diligence, and skill. In some of which cases an action of deceit (or on the case, in nature of deceit) will lie.

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SECT. X. Of injuries to real property; and, first, of dispossession, or ouster, of the freehold.

(1.) INJURIES affecting real property are, 1. Ouster. 2. Trespass. 3. Nuisance. 4. Waste. 5. Subtraction. 6. Disturbance.

(2.) Ouster is the amotion of possession; and is, 1. From freeholds. 2. From chattels real.

(3.) Ouster from freeholds is effected by, 1. Abatement. 2. Intrusion. 3. Disseisin. 4. Discontinuance. 5. Deforcement.

(4.) Abatement is the entry of a stranger, after the death of the ancestor, before the heir.

(5.) Intrusion is the entry of a stranger, after a par-

ticular estate of freehold is determined, before him in remainder or reversion.

(6.) *Disseisin* is a wrongful putting out of him that is seised of the freehold.

(7.) *Discontinuance* is where tenant in tail, or the husband of tenant in fee, makes a larger estate of the land than the law alloweth.

(8.) *Deforcement* is any other detainer of the freehold from him who hath the property, but who never had the possession.

(9.) The universal remedy for all these is restitution or delivery of possession; and, sometimes, damages for the detention. This is effected, 1. By mere entry. 2. By action *possessory*. 3. By writ of right.

(10.) Mere entry, on lands, by him who hath the apparent right of possession, will (if peaceable) divest the mere possession of a wrongdoer. But forcible entries are remedied by immediate restitution, to be given by a justice of the peace.

(11.) Where the wrongdoer hath not only mere possession, but also an *apparent* right of possession, this may be divested by him who hath the *actual* right of possession, by means of the *possessory* actions of writ of entry or *assise*.

(12.) A writ of entry is a real action, which disproves the title of the tenant, by showing the unlawful means under which he gained or continues possession. And it may be brought either against the wrongdoer himself, or in the degrees called the *per*, the *per* and *cui*, and the *post*.

(13.) An *assise* is a real action, which proves the title of the demandant, by showing his own or his ancestor's possession. And it may be brought either to remedy abatements; viz. the assise of *mort d'ancestor*, &c.: Or to remedy recent disseisins; viz. the assise of *novel disseisin*.

(14.) Where the wrongdoer hath gained the actual right of possession, he who hath the right of property can only be remedied by a writ of right, or some writ of a similar nature. As, 1. Where such right of possession is gained by the *discontinuance* of tenant in tail. Remedy, for the right of property: by writ of *formedon*. 2. Where gained by *recovery* in a possessory action, had against tenants of particular estates by their own default. Remedy: by writ of *quod ei deforcat*. 3. Where gained by *recovery* in a possessory action, had upon the merits. 4. Where gained by the *statute* of limitations. Remedy, in both cases: by a mere writ of right, the highest writ in the law.

SECT. XI. Of dispossession, or ouster, of chattels real.

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(1.) OUSTER from *chattels* real s, 1. From estates by *statute* and *elegit*. 2. From an estate for years.

(2.) Ouster from estates by *statute* or *elegit*, is effected by a kind of *disseisin*. Remedy: restitution and damages; by assise of *novel disseisin*.

(3.) Ouster from an estate for years, is effected by a like disseisin, or *ejectment*. Remedy: restitution, and damages; 1. By writ of *ejectione firmæ*. 2. By writ of *quare ejecit infra terminum*.

(4.) A writ of *ejectione firmæ*, or action of trespass in ejectment, lieth where lands, &c. are let for a term of years, and the lessee is ousted or ejected from his

term; in which case he shall recover possession of his term, and damages.

(5.) This is now the usual method of trying titles to land, instead of an action real: *viz.* By, 1. The claimant's making an actual (or supposed) lease upon the land to the plaintiff. 2. The plaintiff's actual (or supposed) entry thereupon. 3. His actual (or supposed) ouster and ejectment by the defendant. For which injury this action is brought either against the tenant, or (more usually) against some casual or fictitious ejector; in whose stead the tenant may be admitted defendant, on condition that the lease, entry, and ouster, be confessed, and that nothing else be disputed but the merits of the title claimed by the lessor of the plaintiff.

(6.) A writ of *quare ejecit infra terminum* is an action of a similar nature; only not brought against the wrongdoer or ejector himself, but such as are in possession under his title.

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SECT. XII. *Of trespasss.*

TRESPASS is an entry upon, and damage done to, another's lands, by one's self, or one's cattle; without any lawful authority, or cause of justification: which is called a *breach of his clofs*. Remedy: damages; by action of trespasss, *quare clausum fregit*: besides that of distress, damage feasant. But, unless the title to the land came chiefly in question, or the trespass was wilful or malicious, the plaintiff (if the damages be under forty shillings) shall recover no more costs than damages.

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SECT. XIII. *Of nuisance.*

(1.) NUISANCE, or annoyance, is any thing that worketh damage or inconvenience: and it is either a *public* and *common* nuisance, of which in the next chapter; or, a *private* nuisance, which is any thing done to the hurt or annoyance of, 1. The corporeal; 2. The incorporeal, hereditaments of another.

(2.) The remedies for a private nuisance (besides that of abatement) are. 1. Damages; by action on the case; (which also lies for special prejudice by a public nuisance). 2. Removal thereof, and damages; by assise of nuisance. 3. Like removal, and damages; by writ of *Quod permittat prosternere*.

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SECT. XIV. *Of waste.*

(1.) WASTE is a spoil and destruction in lands and tenements, to the injury of him who hath, 1. An immediate interest (as, by right of common) in the lands. 2. The remainder or reversion of the inheritance.

(2.) The remedies, for a commoner, are restitution, and damages; by assise of common: Or, damages only; by action on the case.

(3.) The remedy, for him in remainder, or reversion, is, 1. Preventive: by writ of *estrepement* at law, or injunction out of chancery; to stay waste. 2. Corrective: by action of waste; to recover the place wasted, and damages.

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SECT. XV. *Of subtraction.*

(1.) SUBTRACTION is when one, who owes services

to another, withdraws or neglects to perform them. This may be, 1. Of rents, and other services, due by *tenure*. 2. Of those due by *custom*.

(2.) For subtraction of rents and services, due by *tenure*, the remedy is, 1. By distress; to compel the payment or performance. 2. By action of debt. 3. By assise. 4. By writ *de consuetudinibus et servitiis*;—to compel the payment. 5. By writ of *cessavit*;—and, 6. By writ of right *sur disclaimer*;—to recover the land itself.

(3.) To remedy the oppression of the lord, the law has also given, 1. The writ of *Ne injuste vexes*: 2. The writ of *mesne*.

(4.) For subtraction of services, due by *custom*, the remedy is. 1. By writ of *Secda ad molendinum, furnum, torrale, &c.* to compel the performance, and recover damages. 2. By action on the case; for damages only.

SECT. XVI. *Of disturbance.*

(1.) DISTURBANCE is the hindering, or disquieting, the owners of an incorporeal hereditament, in their regular and lawful enjoyment of it

(2.) Disturbances are, 1. Of *franchises*. 2. Of *commons*. 3. Of *ways*. 4. Of *tenure*. 5. Of *patronage*.

(3.) Disturbance of *franchises*, is remedied by a special action on the case; for damages.

(4.) Disturbance of *common*, is, 1. *Intercommoning* without right. Remedy: Damages; by an action on the case, or of trespasss: besides distress, damage feasant; to compel satisfaction. 2. *Surcharging* the common. Remedies: distress, damage feasant; to compel satisfaction: Action on the case; for damages: or, Writ of admeasurement of pasture; to apportion the common; and writ *de secunda superoneratione*; for the supernumerary cattle, and damages. 3. *Inclosure*, or obstruction. Remedies: Restitution of the common, and damages; by assise of *novel disseisin*, and by writ of *quod permittat*: or, Damages only; by action on the case.

(5.) Disturbance of *ways*, is the obstruction, 1. Of a way in gross, by the owner of the land. 2. Of a way appendant, by a stranger. Remedy, for both: damages; by action on the case.

(6.) Disturbance of *tenure*, by driving away tenants, is remedied by a special action on the case; for damages.

(7.) Disturbance of *patronage*, is the hindrance of a patron to present his clerk to a benefice; whereof *usurpation*, within six months, is now become a species.

(8.) Disturbers may be, 1. The pseudo-patron, by his wrongful presentation. 2. His clerk, by demanding institution. 3. The ordinary, by refusing the clerk of the true patron.

(9.) The remedies are, 1. By assise of *darrein presentment*; 2. By writ of *quare impedit*;—to compel institution and recover damages: Consequent to which are the writs of *quare incumbavit*, and *quare non admittit*; for subsequent damages. 3. By writ of right of advowson; to compel institution, or establish the permanent right.

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SECT. XVII. *Of injuries proceeding from, or affecting, the crown.*

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(1.) INJURIES to which the crown is a party are, 1. Where the crown is the aggressor. 2. Where the crown is the sufferer.

(2.) The crown is the aggressor, whenever it is in possession of any property to which the subject hath a right.

(3.) This is remedied, 1. By *petition of right*; where the right is grounded on facts disclosed in the petition itself. 2. By *monstrans de droit*; where the claim is grounded on facts, already appearing on record. The effect of both which is to remove the hands (or possession) of the king.

(4.) Where the crown is the sufferer, the king's remedies are, 1. By such common-law actions as are consistent with the royal dignity. 2. By *inquest of office*, to recover possession; which, when found, gives the king his right by solemn matter of record; but may afterwards be *traversed* by the subject. 3. By writ of *scire facias*, to repeal the king's patent or grant. 4. By *information of intrusion*, to give damages for any trespass on the lands of the crown; or of *debt*, to recover moneys due upon contract, or forfeited by the breach of any penal statute; or sometimes (in the latter case) by *information in rem*: all filed in the exchequer *ex officio* by the king's attorney-general. 5. By writ of *quo warranto*, or *information* in the nature of such writ; to seize into the king's hands any franchise usurped by the subject, or to oust an usurper from any public office. 6. By writ of *mandamus*, unless cause; to admit or restore any person intitled to a franchise or office: to which if a false cause be returned, the remedy is by *traverse*, or by action on the case for damages; and, in consequence, a peremptory *mandamus*, or writ of *restitution*.

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SECT. XVIII. *Of the pursuit of remedies by action; and, first, of the original writ.*

(1.) THE *pursuit* of the several remedies furnished by the laws of England, is, 1. By *action* in the courts of *common law*. 2. By *proceedings* in the courts of *equity*.

(2.) Of an *action* in the court of *common pleas* (originally the proper court for prosecuting civil suits) the orderly parts are, 1. The *original writ*. 2. The *process*. 3. The *pleadings*. 4. The *issue*, or *demurrer*. 5. The *trial*. 6. The *judgment*. 7. The *proceedings* in nature of *appeal*. 8. The *execution*.

(3.) The *original writ* is the beginning or foundation of a suit, and is either *optional* (called a *præcipe*), commanding the defendant to do something in certain, or otherwise show cause to the contrary; or *peremptory* (called a *fi fecerit te securum*), commanding, upon security given by the plaintiff, the defendant to appear in court, to show wherefore he hath injured the plaintiff: both issuing out of chancery under the king's great seal, and returnable in bank during term-time.

SECT. XIX. *Of process.*

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(1.) PROCESS is the means of compelling the defendant to appear in court.

(2.) This includes, 1. *Summons*. 2. The writ of *attachment*, or *pone*; which is sometimes the first or original process. 3. The writ of *distringas*, or distress infinite. 4. The writs of *capias ad respondendum*, and *testatum capias*; or, instead of these, in the king's bench, the bill of Middlesex, and writ of *latitat*;—and, in the exchequer, the writ of *quo minus*. 5. The *alias* and *pluries* writs. 6. The *exigent*, or writ of *exigi facias*, proclamations, and outlawry. 7. *Appearance*, and common bail. 8. The *arrest*. 9. *Special bail*, first to the sheriff, and then to the action.

SECT. XX. *Of pleadings.*

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PLEADINGS are the mutual altercations of the plaintiff and defendant in writing; under which are comprised, 1. The declaration or count; (wherein, incidentally, of the *visne*, *nonsuit*, *retraxit*, and *discontinuance*). 2. The defence, claim of cognizance, *imparlance*, *view*, *oyer*, *aid-prayer*, *voucher*, or *age*; 3. The plea; which is either a *dilatory* plea (1st, to the jurisdiction; 2^{dly}, in disability of the plaintiff; 3^{dly}, in abatement), or it is a plea to the action; sometimes confessing the action either in whole or in part; (wherein of a tender, paying money into court, and set off): but usually denying the complaint, by pleading either, 1st, the general issue; or, 2^{dly}, a special bar (wherein of justifications, the statutes of limitation, &c.). 4. Replication, rejoinder, surrejoinder, rebutter, surrebutter, &c. Therein of *estoppels*, *colour*, *duplicity*, *departure*, *new assignment*, *protestation*, *averment*, and other incidents of pleading.

SECT. XXI. *Of issue and demurrer.*

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(1.) ISSUE is where the parties, in a course of pleading, come to a point affirmed on one side and denied on the other; which, if it be a matter of law, is called a *demurrer*; if it be a matter of fact, still retains the name of an *issue*, of fact.

(2.) *Continuance* is the detaining of the parties in court from time to time, by giving them a day certain to appear upon. And, if any new matter arises since the last continuance or adjournment, the defendant may take advantage of it, even after demurrer or issue, by alleging it in a plea *puis darrein continuance*.

(3.) The determination of an issue in law, or demurrer, is by the opinion of the judges of the court; which is afterwards entered on record.

SECT. XXII. *Of the several species of trial.*

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(1.) TRIAL is the examination of the matter of fact put in issue.

(2.) The species of trials are, 1. By the *record*. 2. By *inspection*. 3. By *certificate*. 4. By *witnesses*. 5. By *wager of battel*. 6. By *wager of law*. 7. By *jury*.

(3.) Trial by the *record* is had, when the existence of such record is the point in issue.

(4.) Trial by *inspection* or *examination* is had by the court, principally when the matter in issue is the evident object of the senses.

(5.) Trial by *certificate* is had in those cases, where such certificate must have been conclusive to a jury.

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(6.) Trial by *witnesses* (the regular method in the civil law) is only used on a writ of dower, when the death of the husband is in issue.

(7.) Trial by *wager of battel*, in civil cases, is only had on a writ of right; but, in lieu thereof, the tenant may have, at his option, the trial by the *grand assize*.

(8.) Trial by *wager of law* is only had, where the matter in issue may be supposed to have been privily transacted between the parties themselves, without the intervention of other witnesses.

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SECT. XXIII. *Of the trial by jury.*

(1.) TRIAL by jury is, 1. *Extraordinary*; as, by the grand assize, in writs of right; and by the grand jury, in writs of attainder. 2. *Ordinary*.

(2.) The method and process of the *ordinary* trial by jury is, 1. The writ of *venire facias* to the sheriff, coroners, or elisors; with the subsequent compulsive process of *habeas corpora*, or *distingas*. 2. The carrying down of the record to the court of *nisi prius*. 3. The sheriff's return; or panel of, 1st, special, 2dly, common jurors. 4. The challenges; 1st, to the array; 2dly, to the polls of the jurors; either, *propter honoris respectum*, *propter defectum*, *propter affectum* (which is sometimes a principal challenge, sometimes to the favour), or *propter delictum*. 5. The *tales de circumstantibus*. 6. The oath of the jury. 7. The evidence; which is either by proofs, 1st, written; 2dly, parole:—or, by the private knowledge of the jurors. 8. The verdict; which may be, 1st, privy; 2dly, public; 3dly, special.

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SECT. XXIV. *Of judgment, and its incidents*

(1.) WHATEVER is transacted at the trial, in the court of *nisi prius*, is added to the record under the name of a *postea*: consequent upon which is the *judgment*.

(2.) Judgment may be *arrested* or *stayed* for causes, 1. *Extrinsic*, or *dehors* the record; as in the case of *new trials*. 2. *Intrinsic*, or within it; as where the declaration varies from the writ, or the verdict from the pleadings, and issue; or where the case, laid in the declaration, is not sufficient to support the action in point of law.

(3.) Where the issue is immaterial, or insufficient, the court may award a *repleader*.

(4.) *Judgment* is the sentence of the law, pronounced by the court, upon the matter contained in the record.

(5.) Judgments are, 1. *Interlocutory*; which are incomplete till perfected by a writ of inquiry. 2. *Final*.

(6.) *Costs*, or expences of suit, are now the necessary consequence of obtaining judgment.

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SECT. XXV. *Of proceeding, in the nature of appeals.*

(1.) PROCEEDINGS, in the nature of *appeals* from judgment, are, 1. A writ of *attainder*; to impeach the verdict of a jury; which of late has been superseded by new trials. 2. A writ of *audita querela*; to discharge a judgment by matter that has since happened.

3. A writ of *error*, from one court of record to another; to correct judgments, erroneous in point of law, and not helped by the statutes of amendment and jeofails.

(2.) Writs of error lie, 1. To the court of *king's bench*, from all inferior courts of record; from the court of *common-pleas* at Westminster; and from the court of *king's bench* in Ireland. 2. To the courts of *exchequer-chamber*, from the law side of the court of *exchequer*; and from proceedings in the court of *king's bench* by bill. 3. To the house of *peers*, from proceedings in the court of *king's bench* by original, and on writs of error; and from the several courts of *exchequer-chamber*.

SECT. XXVI. *Of execution.*

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EXECUTION is the putting in force of the sentence or judgment of the law. Which is effected, 1. Where possession of any hereditament is recovered: by writ of *habere facias seisinam, possessionem, &c.* 2. Where any thing is awarded to be done or rendered, by a special writ for that purpose: as, by writ of abatement, in case of nuisance; *retorna habendo*, and *capias in withernam*, in replevin; *distingas* and *scire facias*, in detinue. 3. Where money only is recovered; by writ of, 1st, *capias ad satisfaciendum*, against the body of the defendant; or, in default thereof, *scire facias* against his bail. 2dly, *Fieri facias*, against his goods and chattels. 3dly, *Levari facias*, against his goods and the profits of his lands. 4thly, *Elegit*, against his goods, and the possession of his lands. 5thly, *Extendi facias*, and other process, on statutes, recognizances, &c. against his body, lands, and goods.

SECT. XXVII. *Of proceedings in the courts of equity.*

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(1.) MATTERS of equity which belong to the peculiar jurisdiction of the court of *chancery*, are, 1. The guardianship of infants. 2. The custody of idiots and lunatics. 3. The superintendence of charities. 4. Commissions of bankrupt.

(2.) The court of *exchequer* and the duchy-court of *Lancaster*, have also some peculiar causes, in which the interest of the king is more immediately concerned.

(3.) *Equity* is the true sense and sound interpretation of the rules of law; and, as such, is equally attended to by the judges of the courts both of common law and equity.

(4.) The essential differences, whereby the English courts of equity are distinguished from the courts of law, are, 1. The mode of *proof*, by a discovery on the oath of the party; which gives a jurisdiction in matters of account, and fraud. 2. The mode of *trial*; by depositions taken in any part of the world. 3. The mode of *relief*; by giving a more specific and extensive remedy than can be had in the courts of law; as, by carrying agreements into execution, staying waste or other injuries by injunction, directing the sale of incumbered lands, &c. 4. The true construction of *securities* for money, by considering them merely as a pledge. 5. The execution of *trusts*, or second uses, in a manner analogous to the law of legal estates.

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(5.) The proceedings in the court of chancery (to which these in the exchequer, &c. very nearly conform) are, 1. Bill. 2. Writ of *subpoena*; and, perhaps, injunction. 3. Process of contempt; viz. (ordinarily) attachment, attachment with proclamations, commission of rebellion, serjeant at arms, and sequestrations. 4. Appearance. 5. Demurrer. 6. Plea. 7. Answer. 8. Exceptions; amendments; cross, or supplemental, bills; bills of revivor, interpleader, &c. 9. Replication. 10. Issue. 11. Depositions, taken upon interrogatories; and subsequent publication thereof. 12. Hearing. 13. Interlocutory decree; feigned issue, and trial; reference to the master, and report; &c. 14. Final decree. 15. Rehearing, or bill of review. 16. Appeal to parliament.

CHAP. IV.

Of PUBLIC WRONGS.

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SECT. I. Of the nature of crimes, and their punishment.

(1.) IN treating of *public wrongs* may be considered, 1. The general nature of crimes and punishments. 2. The persons capable of committing crimes. 3. Their several degrees of guilt. 4. The several species of crimes, and their respective punishments. 5. The means of prevention. 6. The method of punishment.

(2.) A *crime*, or *misdemeanor*, is an act committed, or omitted, in violation of a public law either forbidding or commanding it.

(3.) Crimes are distinguished from civil injuries, in that they are a breach and violation of the *public rights*, due to the whole community, considered as a community.

(4.) *Punishments* may be considered with regard to, 1. The power; 2. The end; 3. The measure;—of their infliction.

(5.) The power, or right, of inflicting human punishments for *natural crimes*, or such as are *mala in se*, was by the law of nature vested in every individual: but, by the fundamental contract of society, is now transferred to the sovereign power; in which also is vested, by the same contract, the right of punishing *positive offences*, or such as are *mala prohibita*.

(6.) The end of human punishments is to prevent future offences; 1. By amending the offender himself. 2. By deterring others through his example. 3. By depriving him of the power to do future mischief.

(7.) The measure of human punishments must be determined by the wisdom of the sovereign power, and not by any uniform universal rule: though that wisdom may be regulated, and assisted, by certain general, equitable, principles.

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SECT. II. Of the persons capable of committing crimes.

(1.) ALL persons are capable of committing crimes, unless there be in them a defect of will: for, to constitute a legal crime, there must be both a vitious will, and a vitious act.

(2.) The will does not concur with the act, 1. Where

there is a defect of *understanding*. 2. Where no will is exerted. 3. Where the act is constrained by force and violence.

(3.) A vitious will may therefore be wanting, in the cases of, 1. Infancy. 2. Idiocy, or lunacy. 3. Drunkenness; which doth not, however, excuse. 4. Misfortune. 5. Ignorance, or mistake of fact. 6. Compulsion, or necessity; which is, 1st, that of civil subjection; 2dly, that of duress *per minas*; 3dly, that of choosing the least pernicious of two evils, where one is unavoidable; 4thly, that of want, or hunger; which is no legitimate excuse.

(4.) The king, from his excellence and dignity, is also incapable of doing wrong.

SECT. III. Of principals and accessories.

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(1.) THE different degrees of guilt in criminals are, 1. As principals. 2. As accessories.

(2.) A *principal* in a crime is, 1. He who commits the fact. 2. He who is present at, aiding, and abetting, the commission.

(3.) An *accessory* is he who doth not commit the fact, nor is present at the commission; but is in some sort concerned therein, either *before* or *after*.

(4.) Accessories can only be in petit treason, and felony: in high treason, and misdemeanors, all are principals.

(5.) An accessory, *before* the fact, is one who, being absent when the crime is committed, hath procured, counselled, or commanded, another to commit it.

(6.) An accessory *after* the fact, is where a person, knowing a felony to have been committed, receives, relieves, comforts, or assists, the felon. Such accessory is usually intitled to the benefit of clergy; where the principal, and accessory *before* the fact, are excluded from it.

SECT. IV. Of offences against GOD and religion.

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(1.) CRIMES and misdemeanors cognizable by the laws of England are such as more immediately offend, 1. GOD, and his holy religion. 2. The law of nations. 3. The king, and his government. 4. The public, or commonwealth. 5. Individuals.

(2.) Crimes more immediately offending GOD and religion are, 1. *Apostacy*. For which the penalty is incapacity, and imprisonment. 2. *Heresy*. Penalty, for one species thereof: the same. 3. Offences against the established church:—Either, by *reviling* its ordinances. Penalties: fine; deprivation; imprisonment; forfeiture.—Or, by *nonconformity* to its worship: 1st, Thro' total *irreligion*. Penalty: fine. 2dly, Thro' protestant *dissenting*. Penalty: suspended by the toleration act. 3dly, Through *popery*, either in professors of the popish religion, popish recusants, convict, or popish priests. Penalties: incapacity; double taxes; imprisonment; fines; forfeitures; abjuration of the realm; judgment of felony, without clergy; and judgment of high treason. 4. *Blasphemy*. Penalty: fine, imprisonment, and corporal punishment. 5. *Profane swearing and cursing*. Penalty: fine, or house of correction. 6. *Witchcraft*; or, at least, the pretence thereto. Penalty: imprisonment, and pillory. 7. Religious *impostures*. Penalty: fine, imprisonment, and cor-

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corporal punishment. 8. *Simony*. Penalties: forfeiture of double value; incapacity. 9. *Sabbath-breaking*. Penalty: fine. 10. *Drunkennes*. Penalty: fine, or stocks. 11. *Lewdness*. Penalties: fine; imprisonment; house of correction.

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SECT. V. *Of offences against the law of nations.*

(1.) The law of nations is a system of rules, deducible by natural reason, and established by universal consent, to regulate the intercourse between independent states.

(2.) In England, the law of nations is adopted in its full extent, as part of the law of the land.

(3.) Offences against this law are principally incident to whole states or nations; but, when committed by private subjects, are then the objects of the municipal law.

(4.) Crimes against the law of nations, animadverted on by the laws of England, are, 1. Violation of *safe-conducts*. 2. Infringement of the rights of *embassadors*. Penalty, in both: arbitrary. 3. *Piracy*. Penalty: judgment of felony, without clergy.

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SECT. VI. *Of high treason.*

(1.) CRIMES and misdemeanors more peculiarly offending the king and his government are, 1. *High treason*. 2. *Felonies* injurious to the prerogative. 3. *Præmunire*. 4. Other *misprisions* and *contempts*.

(2.) *High treason* may, according to the statute of Edward III. be committed, 1. By *compassing* or *imagining* the death of the king, or queen-consort, or their eldest son and heir; demonstrated by some overt act. 2. By *violating* the king's companion, his eldest daughter, or the wife of his eldest son. 3. By some overt act of *levying war* against the king in his realm. 4. By *adherence* to the king's enemies. 5. By *counterfeiting* the king's great, or privy seal. 6. By *counterfeiting* the king's money, or importing counterfeit money. 7. By *killing* the chancellor, treasurer, or king's justices, in the execution of their offices.

(3.) *High treasons*, created by subsequent statutes, are such as relate, 1. To *papists*: as, the repeated defence of the pope's jurisdiction; the coming from beyond sea of a natural-born popish priest; the renouncing of allegiance, and reconciliation to the pope or other foreign power. 2. To the *coinage*, or other signatures of the king: as, counterfeiting (or, importing and uttering counterfeit) foreign coin, here current; forging the sign manual, privy signet, or privy seal; falsifying, &c. the current coin. 3. To the *protestant succession*: as, corresponding with, or remitting to, the late Pretender's sons; endeavouring to impede the succession; writing or printing, in defence of any Pretender's title, or in derogation of the act of settlement, or of the power of parliament to limit the descent of the crown.

(4.) The *punishment* of high treason, in *males*, is (generally) to be, 1. Drawn. 2. Hanged. 3. Embowelled alive. 4. Beheaded. 5. Quartered. 6. The head and quarters to be at the king's disposal. But, in treasons relating to the coin, only to be drawn, and hanged till dead. *Females*, in both cases, are to be drawn, and burned alive.

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SECT. VII. *Of felonies injurious to the king's prerogative.*

(1.) FELONY is that offence which occasions the total forfeiture of lands or goods at common law; now usually also punishable with death, by hanging; unless through the benefit of clergy.

(2.) *Felonies* injurious to the king's prerogative (of which some are within, others without, clergy) are, 1. Such as relate to the *coin*: as, the wilful uttering of counterfeit money, &c.; (to which head some inferior misdemeanors affecting the coinage may be also referred). 2. *Conspiring* or attempting to kill a *privy counsellor*. 3. *Serving foreign states*, or enlisting soldiers for *foreign service*. 4. *Embezzling* the king's *armour* or *stores*. 5. *Desertion* from the king's armies, by land or sea.

SECT. VIII. *Of præmunire.*

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(1.) PRÆMUNIRE, in its original sense, is the offence of adhering to the temporal power of the Pope, in derogation of the regal authority. Penalty: outlawry, forfeiture, and imprisonment: which hath since been extended to some offences of a different nature.

(2.) Among these are, 1. Importing Popish trinkets. 2. Contributing to the maintenance of Popish seminaries abroad, or Popish priests in England. 3. Molesting the possessors of abbey-lands. 4. Acting as broker in an usurious contract, for more than ten per cent. 5. Obtaining any stay of proceedings in suits for monopolies. 6. Obtaining an exclusive patent for gunpowder or arms. 7. Exertion of purveyance or pre-emption. 8. Asserting a legislative authority in both or either house of parliament. 9. Sending any subject a prisoner beyond sea. 10. Refusing the oaths of allegiance and supremacy. 11. Preaching, teaching, or advised speaking, in defence of the right of any pretender to the crown, or in derogation of the power of parliament to limit the succession. 12. Treating of other matters by the assembly of peers of Scotland, convened for electing their representatives in parliament. 15. Unwarrantable undertakings by unlawful subscriptions to public funds.

SECT. IX. *Of misprisions and contempts affecting the king and government.*

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(1.) MISPRISIONS and *contempts* are all such high offences as are under the degree of capital.

(2.) These are, 1. *Negative*, in concealing what ought to be revealed. 2. *Positive*, in committing what ought not to be done.

(3.) *Negative* misprisions are, 1. *Misprision of treason*. Penalty: forfeiture and imprisonment. 2. *Misprision of felony*. Penalty: fine and imprisonment. 3. *Concealment of treasure trove*. Penalty: fine and imprisonment.

(4.) *Positive* misprisions or high misdemeanors and contempts, are, 1. *Mal-administration* of public trusts, which includes the crime of *peculation*. Usual penalties: banishment; fines; imprisonment; disability. 2. *Contempts* against the king's prerogative. Penalty: fine, and imprisonment. 3. *Contempt* against his

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person and government. Penalty: fine, imprisonment, and infamous corporal punishment. 4. Contempts against his *title*. Penalties: fine, and imprisonment; or fine, and disability. 5. Contempts against his *palaces, or courts of justice*. Penalties: fine; imprisonment; corporal punishment; loss of right hand; forfeiture.

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SECT. X. *Of offences against public justice.*

(1.) CRIMES especially affecting the *commonwealth* are offences, 1. Against the public *justice*. 2. Against the public *peace*. 3. Against the public *trade*. 4. Against the public *health*. 5. Against the public *police or economy*.

(2.) Offences against the public *justice*, are, 1. *Embezzling or vacating records, and personating others in courts of justice*. Penalty: judgment of felony, usually without clergy. 2. *Compelling prisoners to become approvers*. Penalty: judgment of felony. 3. *Obstructing the execution of process*. 4. *Escapes*. 5. *Breach of prison*. 6. *Rescue*. Which four may (according to the circumstances) be either felonies, or misdemeanors punishable by fine and imprisonment. 7. *Returning from transportation*. This is felony, without clergy. 8. *Taking rewards to help one to his stolen goods*. Penalty: the same as for the theft. 9. *Receiving stolen goods*. Penalties: transportation; fine; and imprisonment.—10. *Theftbote*. 11. *Common barrety and suing in a feigned name*. 12. *Maintenance*. 13. *Champerty*. Penalty, in these four: fine, and imprisonment. 14. *Compounding prosecutions on penal statutes*. Penalty: fine, pillory, and disability. 15. *Conspiracy*; and threats of accusation in order to extort money, &c. Penalties: the villenous judgment; fine; imprisonment; pillory; whipping; transportation. 16. *Perjury, and subordination thereof*. Penalties: infamy; imprisonment; fine, or pillory; and, sometimes, transportation or house of correction. 17. *Bribery*. Penalty: fine, and imprisonment. 18. *Embarras*. Penalty: infamy, fine, and imprisonment. 19. *False verdict*. Penalty: the judgment in attainder. 20. *Negligence of public officers, &c.* Penalty: fine, and forfeiture of the office. 21. *Oppression by magistrates*. 22. *Extortion of officers*. Penalty, in both: imprisonment, fine, and sometimes forfeiture of the office.

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SECT. XI. *Of offences against the public peace.*

OFFENCES against the public *peace* are, 1. *Riotous assemblies to the number of twelve*. 2. *Appearing armed, or hunting in disguise*. 3. *Threatening, or demanding any valuable thing, by letter*.—All these are felonies, without clergy. 4. *Destroying of turnpikes, &c.* Penalties: whipping; imprisonment; judgment of felony, with and without clergy.—5. *Affrays*. 6. *Riots, routs, and unlawful assemblies*. 7. *Tumultuous petitioning*. 8. *Forcible entry, and detainer*. Penalty, in all four: fine, and imprisonment. 9. *Going unusually armed*. Penalty: forfeiture of arms, and imprisonment. 10. *Spreading false news*. Penalty: fine, and imprisonment. 11. *Pretended prophecies*. Penalties: fine; imprisonment; and forfeiture. 12. *Challenges to fight*. Penalty: fine, imprisonment, and some-

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times forfeiture. 13. *Libels*. Penalty: fine, imprisonment, and corporal punishment.

SECT. XII. *Of offences against public trade.*

OFFENCES against the public *trade*, are, 1. *Owling*. Penalties: fines; forfeiture; imprisonment; loss of left hand; transportation; judgment of felony. 2. *Smuggling*. Penalties: fines; loss of goods; judgment of felony, without clergy. 3. *Fraudulent bankruptcy*. Penalty: judgment of felony without clergy. 5. *U-sury*. Penalty: fine, and imprisonment. 5. *Cheating*. Penalties: fine; imprisonment; pillory; tumbrel; whipping, or other corporal punishment, transportation.—6. *Forestalling*. 7. *Regrating*. 8. *Engrossing*. Penalties, for all three; loss of goods; fine; imprisonment; pillory. 9. *Monopolies, and combinations to raise the price of commodities*. Penalties: fines; imprisonment; pillory; loss of ear; infamy; and, sometimes, the pains of *præmunire*. 10. *Exercising a trade, not having served as an apprentice*. Penalty: fine. 11. *Transporting, or residing abroad, of artificers*. Penalties: fine; imprisonment; forfeiture; incapacity; becoming aliens.

SECT. XIII. *Of offences against the public health, and public police or economy.*

(1.) OFFENCES against the public *health* are, 1. *Irregularity, in the time of the plague, or of quarantine*. Penalties: whipping; judgment of felony, with and without clergy. 2. *Selling unwholesome provisions*. Penalties: amercement; pillory; fine; imprisonment; abjuration of the town.

(2.) Offences against the public *police and economy* or domestic order of the kingdom, are, 1. Those relating to *clandestine and irregular marriages*. Penalties: judgment of felony, with and without clergy. 2. *Bigamy, or (more properly) polygamy*. Penalty: judgment of felony.—3. *Wandering, by soldiers or mariners*. 4. *Remaining in England, by Egyptians; or being in their fellowship one month*. Both these are felonies, without clergy. 5. *Common nuisances*, 1st, by annoyances or purprestures in highways, bridges, and rivers; 2^{dly}, by offensive trades and manufactures; 3^{dly}, by disorderly houses; 4^{thly}, by lotteries; 5^{thly}, by cottages; 6^{thly}, by fireworks; 7^{thly}, by evesdropping. Penalty, in all; fine.—8^{thly}, By common scolding. Penalty: the cucking stool. 6. *Idleness, disorder, vagrancy, and incorrigible roguery*. Penalties: imprisonment; whipping; judgment of felony. 7. *Luxury, in diet*. Penalty, discretionary. 8. *Gaming*. Penalties: to gentlemen, fines; to others, fine and imprisonment; to cheating gamesters, fine, infamy, and the corporal pains of perjury. 9. *Destroying the game*. Penalties: fines, and corporal punishment.

SECT. XIV. *Of homicide.*

(1.) CRIMES especially affecting *individuals* are, 1. Against their *persons*. 2. Against their *habitations*. 3. Against their *property*.

(2.) Crimes against the *persons* of individuals, are, 1. By *homicide, or destroying life*. 2. By other *corporal injuries*.

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(3.) Homicide is, 1. *Justifiable*. 2. *Excusable*. 3. *Felonious*.

(4.) Homicide is *justifiable*, 1. By necessity, and command of law. 2. By permission of law; 1st, for the furtherance of public justice; 2^{dly}, for prevention of some forcible felony.

(5.) Homicide is *excusable*. 1. *Per infortunium*, or by mis-adventure. 3. *Se defendendo*, or in self-defence, by chance-medley. Penalty, in both: forfeiture of goods; which however is pardoned of course.

(6.) *Felonious* homicide is the killing of a human creature without justification or excuse. This is, 1. Killing *one's self*. 2. Killing *another*.

(7.) Killing *one's self*, or *self-murder*, is where one deliberately, or by any unlawful malicious act, puts an end to his own life. This is felony; punished by ignominious burial, and forfeiture of goods and chattels.

(8.) Killing *another* is, 1. *Man slaughter*. 2. *Murder*.

(9.) *Man slaughter* is the unlawful killing of another, without malice, express or implied. This is either, 1. Voluntary, upon a sudden heat. 2. Involuntary, in the commission of some unlawful act. Both are felony, but within clergy; except in the case of *stabbing*.

(10.) *Murder* is when a person, of sound memory and discretion, unlawfully killeth any reasonable creature, in being, and under the king's peace; with malice aforethought, either express or implied. This is felony, without clergy; punished with speedy death, and hanging in chains, or dissection.

(11.) *Petit treason* (being an aggravated degree of *murder*) is where the servant kills his master, the wife her husband, or the ecclesiastic his superior. Penalty: in men, to be drawn and hanged; in women, to be drawn and burned.

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SECT. XV. Of offences against the persons of individuals.

CRIMES affecting the persons of individuals, by other corporal injuries not amounting to homicide, are, 1. *Mayhem*; and also *shooting* at another. Penalties: fine; imprisonment; judgment of felony, without clergy. 2. Forcible *abduction*, and *marriage* or *defilement*, of an heiress; which is felony: also, *stealing*, and *deflowering* or *marrying*, any woman-child under the age of sixteen years; for which the penalty is imprisonment, fine, and temporary forfeiture of her lands. 3. *Rape*, and also *carnal knowledge*, of a woman-child under the age of ten years. 4. *Buggery*, with man or beast. Both these are felonies, without clergy.—5. *Assault*. 6. *Battery*; especially of clergymen. 7. *Wounding*. Penalties, in all three: fine; imprisonment; and other corporal punishment. 8. *False imprisonment*. Penalties: fine; imprisonment; and (in some atrocious cases) the pains of *præmunire*, and incapacity of office or pardon. 9. *Kidnapping*, or forcibly stealing away the king's subjects. Penalty: fine; imprisonment; and pillory.

xxxviii. SECT. XVI. Of offences against the habitations of individuals.

(1.) CRIMES, affecting the habitations of individuals are, 1. *Arson*. 2. *Burglary*.

(2.) *Arson* is the malicious and wilful burning of the house, or out-house, of another man. This is felony; in some cases within, in others without, clergy.

(3.) *Burglary* is the breaking and entering, by night, into a mansion-house; with intent to commit a felony. This is felony, without clergy.

SECT. XVII. Of offences against private property.

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(1.) CRIMES affecting the private property of individuals are, 1. *Larciny*. 2. Malicious *mischief*. 3. *Forgery*.

(2.) *Larciny* is, 1. *Simple*. 2. *Mixed*, or *compound*.

(3.) *Simple larciny* is the felonious taking, and carrying away, of the personal goods of another. And it is, 1. *Grand larciny*; being above the value of twelve pence. Which is felony; in some cases within, in others without, clergy. 2. *Petit larciny*; to the value of twelve pence or under. Which is also felony, but not capital; being punished with whipping, or transportation.

(4.) *Mixed*, or *compound*, larciny is that wherein the taking is accompanied with the aggravation of being, 1. From the *house*. 2. From the *person*.

(5.) Larcinies from the *house*, by day or night, are felonies without clergy, when they are, 1. Larcinies, above *twelve pence*, from a church; or by breaking a tent or booth in a market or fair, by day or night, the owner or his family being therein;—or by breaking a dwelling-house by day, any person being therein;—or from a dwelling-house by day, without breaking, any person therein being put in fear;—or from a dwelling-house by night, without breaking, the owner, or his family being therein and put in fear. 2. Larcinies, of *five shillings*, by breaking the dwelling-house, shop, or warehouse by day, though no person be therein;—or, by privately stealing in any shop, warehouse, coach-house, or stable, by day or night, without breaking, and though no person be therein. 3. Larcinies, of *forty shillings*, from a dwelling-house or its out-houses, without breaking, and though no person be therein.

(6.) Larciny from the *person* is, 1. By *privately stealing*, from the person of another, above the value of twelve pence. 2. By *robbery*; or the felonious and forcible taking, from the person of another, in or near the highway, goods or money of any value, by putting him in fear. These are both felonies without clergy. An attempt to rob is also felony.

(7.) Malicious *mischief*, by destroying dikes, goods, cattle, ships, garments, fish-ponds, trees, woods, churches, chapels, meeting-houses, houses, out-houses, corn, hay, straw, sea or river banks, hop-binds, coal-mines (or engines thereunto belonging), or any fences for inclosures by act of parliament, is felony; and, in most cases, without benefit of clergy.

(8.) *Forgery* is the fraudulent making or alteration of a writing, in prejudice of another's right. Penalties: fine; imprisonment; pillory; loss of nose and ears; forfeiture; judgment of felony, without clergy.

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SECT. XVIII. *Of the means of preventing offences.*

(1.) CRIMES and misdemeanors may be prevented, by compelling suspected persons to give *security*: which is effected by binding them in a conditional recognizance to the king, taken in court, or by a magistrate.

(2.) These recognizances may be conditioned, 1. To keep the *peace*. 2. To be of *good behaviour*.

(3.) They may be taken by any justice or conservator of the peace, at his own discretion; or, at the request of such as are intitled to demand the same.

(4.) All persons, who have given sufficient cause to apprehend an intended breach of the peace, may be bound over to keep the *peace*; and all those, that be not of good fame, may be bound to the *good behaviour*; and may, upon refusal in either case, be committed to gaol.

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SECT. XIX. *Of courts of criminal jurisdiction.*

(1.) IN the method of *punishment* may be considered, 1. The several *courts* of criminal jurisdiction. 2. The several *proceedings* therein.

(2.) The criminal *courts* are, 1. Those of a *public* and general jurisdiction throughout the realm. 2. Those of a *private* and special jurisdiction.

(3.) *Public* criminal courts are, 1. The high court of parliament; which proceeds by impeachment. 2. The court of the lord high steward; and the court of the king in full parliament: for the trial of capitally indicted peers. 3. The court of king's bench. 4. The court of chivalry. 5. The court of admiralty, under the king's commission. 6. The courts of oyer and terminer, and general gaol-delivery. 7. The court of quarter-sessions of the peace. 8. The sheriff's tourn. 9. The court leet. 10. The court of the coroner. 11. The court of the clerk of the market.

(4.) *Private* criminal courts are, 1. The court of the lord steward, &c. by statute of Henry VII. 2. The court of the lord steward, &c. by statute of Henry VIII. 3. The university courts.

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SECT. XX. *Of summary convictions.*

(1.) PROCEEDINGS in criminal courts are, 1. *Summary*. 2. *Regular*.

(2.) *Summary* proceedings are such, whereby a man may be convicted of divers offences, without any formal process or jury, at the discretion of the judge or judges appointed by act of parliament, or common law.

(3.) Such are, 1. Trials of offences and frauds against the laws of *excise* and other branches of the king's revenue. 2. Convictions before *justices* of the peace upon a variety of minute offences, chiefly against the public police. 3. *Attachments* for contempts to the superior courts of justice.

cxliii.

SECT. XXI. *Of arrests.*

(1.) REGULAR proceedings in the courts of com-

mon law, are, 1. *Arrest*. 2. *Commitment and bail*. 3. *Prosecution*. 4. *Process*. 5. *Arraignment*, and its incidents. 6. *Plea and issue*. 7. *Trial and conviction*. 8. *Clergy*. 9. *Judgment*, and its consequences. 10. *Reversal of judgment*. 11. *Reprieve or pardon*. 12. *Execution*.

(2.) An *arrest* is the apprehending, or restraining, of one's person; in order to be forthcoming to answer a crime whereof one is accused or suspected.

(3.) This may be done, 1. By warrant. 2. By an officer, without warrant. 3. By a private person, without warrant. 4. By hue and cry.

SECT. XXII. *Of commitment and bail.*

cxliv.

(1.) COMMITMENT is the confinement of one's person in prison, for safe custody, by warrant from proper authority; unless, in bailable offences, he puts in sufficient *bail*, or security for his future appearance.

(2.) The magistrate is bound to take reasonable bail, if offered; unless the offender be not bailable.

(3.) Such are, 1. Persons accused of treason; or, 2. Of murder; or, 3. Of manslaughter, by indictment; or if the prisoner was clearly the slayer. 4. Prison-breakers, when committed for felony. 5. Outlaws. 6. Those who have abjured the realm. 7. Approvers, and appellees. 8. Persons taken with the mainour. 9. Persons accused of arson. 10. Excommunicated persons.

(4.) The magistrate may, at his discretion, admit to bail, or otherwise, persons not of good fame, charged with other felonies, whether as principals or as accessories.

(5.) If they be of good fame, he is bound to admit them to bail.

(6.) The court of king's bench, or its judges in time of vacation, may bail in any case whatsoever.

SECT. XXIII. *Of the several modes of prosecution.*

cxlv.

(1.) PROSECUTION, or the manner of accusing offenders, is either by a previous finding of a grand jury; as, 1. By *presentment*. 2. By *indictment*. Or, without such finding. 3. By *information*. 4. By *appeal*.

2. A *presentment* is the notice taken by a grand jury of any offence, from their own knowledge or observation.

(3.) An *indictment* is a written accusation of one or more persons of a crime or misdemeanor, preferred to, and presented on oath by, a grand jury; expressing, with sufficient certainty, the person, time, place, and offence.

(4.) An *information* is, 1. At the suit of the king and a subject, upon penal statutes. 4. At the suit of the king only. Either, 1. Filed by the attorney-general *ex officio*, for such misdemeanors as affect the king's person or government: or, 2. Filed by the master of the crown-office (with leave of the court of king's bench) at the relation of some private subject, for other gross and notorious misdemeanors. All dif-

fering from indictments in this; that they are exhibited by the informer, or the king's officer; and not on the oath of a grand jury.

(5.) An *appeal* is an accusation or suit, brought by one private subject against another, for larciny, rape, mayhem, arson, or homicide; which the king cannot discharge or pardon, but the party alone can release.

cxlvi. SECT. XXIV. *Of process upon an indictment.*

(1.) PROCESS to bring in an offender, when indicted in his absence, is, in misdemeanors, by *venire facias*, distress infinite, and *capias*: in capital crimes, by *capias* only: and, in both, by outlawry.

(2.) During this stage of proceedings, the indictment may be removed into the court of king's bench from any inferior jurisdiction, by writ of *certiorari facias*: and cognizance must be claimed in places of exclusive jurisdiction.

cxlvii. SECT. XXV. *Of arraignment, and its incidents.*

(1.) ARRAIGNMENT is the calling of the prisoner to the bar of the court, to answer the matter of the indictment.

(2.) Incident hereunto are, 1. The standing mute of the prisoner; for which, in petit treason, and felonies of death, he shall undergo the *peine fort & dure*. 2. His confession; which is either *simple*, or by way of *approvement*.

cxlviii. SECT. XXVI. *Of plea, and issue.*

(1.) THE *plea*, or defensive matter alleged by the prisoner, may be, 1. A plea to the jurisdiction. 2. A demurrer in point of law. 3. A plea in abatement. 4. A special plea in bar; which is, 1st, *Auterfoits acquit*; 2dly, *Auterfoits convict*; 3dly, *Auterfoits attain*; 4thly, A pardon. 5. The general issue, not guilty.

(2.) Hereupon *issue* is joined by the clerk of the arraigns, on behalf of the king.

cxlix. SECT. XXVII. *Of trial, and conviction.*

(1.) TRIALS of offences, by the laws of England, were and are, 1. By *ordeal*, of either fire or water. 2. By the *corfuad*. Both these have been long abolished. 3. By *battel*, in appeals and improvements. 4. By the *peers* of Great Britain. 5. By *jury*.

(2.) The method and process of trial by *jury* is, 1. The impannelling of the jury. 2. Challenges; 1st, for cause; 2dly, peremptory. 3. *Tales de circumstantibus*. 4. The oath of the jury. 5. The evidence. 6. The verdict, either general or special.

(3.) *Conviction* is when the prisoner pleads, or is found guilty: whereupon, in felonies, the prosecutor is intitled to, 1. His expences. 2. Restitution of his goods.

cl. SECT. XXVIII. *Of the benefit of clergy.*

(1.) CLERGY, or the benefit thereof, was originally derived from the usurped jurisdiction of the Popish

ecclesiastics; but hath since been new-modelled by several statutes.

(2.) It is an exemption of the clergy from any other secular punishment for felony, than imprisonment for a year, at the court's discretion; and it is extended likewise, absolutely, to lay peers, for the first offence; and to all lay-commoners, for the first offence also, upon condition of branding, imprisonment, or transportation.

(3.) All felonies are intitled to the benefit of clergy, except such as are now ousted by particular statutes.

(4.) Felons, on receiving the benefit of clergy, (though they forfeit their goods to the crown), are discharged of all clergyable felonies before committed, and restored in all capacities and credits.

clia. SECT. XXIX. *Of judgment, and its consequences.*

(1.) JUDGMENT (unless any matter be offered in arrest thereof) follows upon conviction; being the pronouncing of that punishment which is expressly ordained by law.

(2.) *Attainder* of a criminal is the immediate consequence, 1. Of having judgment of death pronounced upon him. 2. Of outlawry for a capital offence.

(3.) The consequences of attainder are, 1. *Forfeiture* to the king. 2. *Corruption of blood*.

(4.) *Forfeiture* to the king, is, 1. Of real estates, upon attainder;—in high treason, absolutely, till the death of the late Pretender's sons;—in felonies, for the king's year, day, and waste;—in misprision of treason, assaults on a judge, or battery sitting the courts; during the life of the offender. 2. Of personal estates, upon conviction; in all treason, misprision of treason, felony, excusable homicide, petit larceny, standing mute upon arraignment, the above-named contempts of the king's courts, and flight.

(5.) *Corruption of blood* is an utter extinction of all inheritable quality therein: so that, after the king's forfeiture is first satisfied, the criminal's lands escheat to the lord of the fee; and he can never afterwards inherit, be inherited, or have any inheritance derived through him.

clib. SECT. XXX. *Of reversal of judgment.*

(1.) JUDGMENTS, and their consequences, may be avoided, 1. By *falsifying*, or *reversing*, the attainder. 2. By *reprieve*, or *pardon*.

(2.) Attainders may be *falsified*, or *reversed*. 1. Without a writ of error; for matter *dehors* the record. 2. By writ of error; for mistakes in the judgment, or record. 3. By act of parliament; for favour.

(3.) When an *outlawry* is reversed, the party is restored to the same plight as if he had appeared upon the *capias*. When a *judgment*, on conviction, is reversed, the party stands as if never accused.

clic. SECT. XXXI. *Of reprieve, and pardon.*

(1.) A REPRIEVE is a temporary suspension of the judgment, 1. *Ex arbitrio judicis*. 2. *Ex necessitate legis*; for pregnancy, insanity, or the trial of identity of person, which must always be tried *instante*.

(2.)

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(2.) A pardon is a permanent avoider of the judgment by the king's majesty, in offences against his crown and dignity; drawn in due form of law, allowed in open court, and thereby making the offender a new man.

(3.) The king cannot pardon, 1. Imprisonment of the subject beyond the seas. 2. Offences prosecuted by appeal. 3. Common nuisances. 4. Offences against popular or penal statutes, after information brought by a subject. Nor is his pardon pleadable to an impeachment by the commons in parliament.

SECT. XXXII. Of execution.

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Scotland.
cliv.

(1.) EXECUTION is the completion of human punishment, and must be strictly performed in the manner which the law directs.

(2.) The warrant for execution is sometimes under the hand and seal of the judge; sometimes by writ from the king; sometimes by rule of court; but commonly by the judge's signing the calendar of prisoners, with their separate judgments in the margin.

PART III. THE LAW OF SCOTLAND.

GENERAL OBSERVATIONS.

clv.

Municipal
law.

1. THE municipal law of Scotland, as of most other countries, consists partly of statutory or written law, which has the express authority of the legislative power; partly of customary or unwritten law, which derives force from its presumed or tacit consent.

Statutory
law.Acts of par-
liament.

2. Under our statutory or written law is comprehended, (1.) Our acts of parliament: not only those which were made in the reign of James I. of Scotland, and from thence down to our union with England in 1707, but such of the British statutes enacted since the union as concerned this part of the united kingdom.

Regiam

Majestatem

3. The remains of our ancient written law were published by Sir John Skene clerk-register, in the beginning of the last century, by licence of parliament. The books of *Regiam Majestatem*, to which the whole collection owes its title, seem to be a system of Scots law, written by a private lawyer at the command of David I.; and though no express confirmation of that treatise by the legislature appears, yet it is admitted to have been the ancient law of our kingdom by express statutes. The borough laws, which were also enacted by the same King David, and the statutes of William, Alexander II. David II. and the three Roberts, are universally allowed to be genuine. Our parliaments have once and again appointed commissions to revise and amend the *Regiam Majestatem*, and the other ancient books of our law, and to make their report: but, as no report appears to have been made, nor consequently any ratification by parliament, none of these remains are received, as of proper authority, in our courts; yet they are of excellent use in proving and illustrating our most ancient customs.

Acts of se-
derunt.

4. Our written law comprehends, (2.) The acts of sederunt, which are ordinances for regulating the forms of proceeding before the court of session in the administration of justice, made by the judges, who have a delegated power from the legislature for that purpose. Some of these acts dip upon matter of right, which declare what the judges apprehend to be the law of Scotland, and what they are to observe afterwards as a rule of judgment.

Authority
of the civil
and canon
laws.

5. The civil, or Roman and canon laws, though they are not perhaps to be deemed proper parts of our written law, have undoubtedly had the greatest influence in Scotland. The powers exercised by our sovereigns and judges have been justified upon no other ground, than that they were conformable to the civil

or canon laws; and a special statute was judged necessary, upon the reformation, to rescind such of their constitutions as were repugnant to the Protestant doctrine. From that period, the canon law has been little respected, except in questions of tithes, patronages, and some few more articles of ecclesiastical right: but the Roman continues to have great authority in all cases where it is not derogated from by statute or custom, and where the genius of our law suffers us to apply it.

6. Our unwritten or customary law, is that which, without being expressly enacted by statute, derives its force from the tacit consent of king and people; which consent is presumed from the ancient custom of the community. Custom, as it is equally founded in the will of the lawgiver with written law, has therefore the same effects: hence, as one statute may be explained or repealed by another, so a statute may be explained by the uniform practice of the community, and even go into disuse by a posterior contrary custom. But this power of custom to derogate from prior statutes is generally confined by lawyers to statutes concerning private right, and does not extend to those which regard public policy.

7. An uniform tract of the judgments or decisions of the court of session is commonly considered as part of our customary law; and without doubt, where a particular custom is thereby fixed or proved, such custom of itself constitutes law: but decisions, though they bind the parties litigating, have not, in their own nature, the authority of law in similar cases; yet, where they continue uniform, great weight is justly laid on them. Neither can the judgments of the house of peers of Great Britain reach farther than to the parties in the appeal, since in these the peers act as judges, not as lawgivers.

8. Though the laws of nature are sufficiently published by the internal suggestion of natural light, civil laws cannot be considered as a rule for the conduct of life, till they are notified to those whose conduct they are to regulate. The Scots acts of parliament were, by our most ancient custom, proclaimed in all the different shires, boroughs, and baron-courts, of the kingdom. But after our statutes came to be printed, that custom was gradually neglected; and at last, the publication of our laws, at the market-cross of Edinburgh, was declared sufficient; and they became obligatory 40 days thereafter. British statutes are deemed sufficiently notified, without formal promulgation; either because the printing is truly a publication; or because

every

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every subject is, by a maxim of the English law, party to them, as being present in parliament, either by himself or his representative. After a law is published, no pretence of ignorance can excuse the breach of it.

9. As laws are given for the rule of our conduct, they can regulate future cases only; for past actions, being out of our power, can admit of no rule. Declaratory laws form no exception to this; for a statute, where it is declaratory of a former law, does no more than interpret its meaning; and it is included in the notion of interpretation, that it must draw back to the date of the law interpreted.

Interpreta-
tion of laws.

10. By the rules of interpreting statute-law received in Scotland, an argument may be used from the title to the act itself, *a rubro ad nigrum*; at least, where the rubric has been either originally framed, or afterwards adopted by the legislature. The preamble or narrative, which recites the inconveniences that had arisen from the former law; and the causes inducing the enactment, may also lead a judge to the general meaning of the statute. But the chief weight is to be laid on the statutory words.

11. Laws, being directed to the unlearned as well as the learned, ought to be construed in their most obvious meaning, and not explained away by subtle distinctions; and no law is to suffer a figurative interpretation, where the proper sense of the words is as commodious, and equally fitted to the subject of the statute. Laws ought to be explained so as to exclude absurdities, and in the sense which appears most agreeable to former laws, to the intention of the lawgiver, and to the general frame and structure of the constitution. In prohibitory laws, where the right of acting is taken from a person, solely for the private advantage of another, the consent of him, in whose behalf the law was made, shall support the act done in breach of it; but the consent of parties immediately interested has no effect in matters which regard the public utility of a state. Where the words of a statute are capable but of one meaning, the statute must be observed, however hard it may bear on particular persons. Nevertheless, as no human system of laws can comprehend all possible cases, more may sometimes be meant by the lawgiver than is expressed; and hence certain statutes, where extension is not plainly excluded, may be extended beyond the letter, to similar and omitted cases: others are to be confined to the statutory words.

Strict.

12. A strict interpretation is to be applied, (1.) To correctory statutes, which repeal or restrict former laws; and to statutes which enact heavy penalties, or restrain the natural liberties of mankind. (2.) Laws, made on occasion of present exigencies in a state, ought not to be drawn to similar cases, after the pressure is over. (3.) Where statutes establish certain solemnities as requisite to deeds, such solemnities are not suppliable by equivalents; for solemnities lose their nature, when they are not performed specifically. (4.) A statute, which enumerates special cases, is, with difficulty, to be extended to cases not expressed; but, where a law does not descend to particulars, there is greater reason to extend it to similar cases. (5.) Statutes, which carry a dispensation or privilege to particular persons or societies, suffer a strict interpretation; because they derogate from the general law, and imply a burden upon the rest of the community. But at no rate can a pri-

vilage be explained to the prejudice of those in whose behalf it was granted. As the only foundation of customary law is usage, which consists in fact, such law can go no farther than the particular usage has gone.

13. All statutes, concerning matters specially favoured by law, receive an ample interpretation; as laws for the encouragement of commerce, or of any useful public undertaking, for making effectual the wills of dying persons, for restraining fraud, for the security of creditors, &c. A statute, though its subject-matter should not be a favourite of the law, may be extended to similar cases, which did not exist when the statute was made; and for which, therefore, it was not in the lawgiver's power to provide.

14. Every statute, however unfavourable, must receive the interpretation necessary to give it effect: and, on the other hand, in the extension of favourable laws, scope must not be given to the imagination, in discovering remote resemblances; the extension must be limited to the cases immediately similar. Where there is ground to conclude that the legislature has omitted a case out of the statute purposely, the statute cannot be extended to that case, let it be ever so similar to the cases expressed.

15. The objects of the laws of Scotland, according to Mr Erskine, one of the latest writers on the subject, are, Persons, Things, and Actions.

CHAP. I.

OF PERSONS.

AMONG persons, judges, who are invested with jurisdiction, deserve the first consideration.

SECT. I. *Of jurisdiction and judges in general.*

clvi.

JURISDICTION is a power conferred upon a judge or magistrate, to take cognisance of and decide causes according to law, and to carry his sentences into execution. That tract of ground, or district, within which a judge has the right of jurisdiction, is called his *territory*: and every act of jurisdiction exercised by a judge without his territory, either by pronouncing sentence, or carrying it into execution, is null.

2. The supreme power, which has the right of enacting laws, falls naturally to have the right of erecting courts, and appointing judges, who may apply these laws to particular cases: but, in Scotland, this right has been always intrusted with the crown, as having the executive power of the state.

3. Jurisdiction is either supreme, inferior, or mixed. That jurisdiction is supreme, from which there lies no appeal to a higher court. Inferior courts are those whose sentences are subject to the review of the supreme courts, and whose jurisdiction is confined to a particular territory. Mixed jurisdiction participates of the nature both of the supreme and inferior: thus the judge of the high court of admiralty, and the commissaries of Edinburgh, have an universal jurisdiction over Scotland, and they can review the decrees of inferior admirals and commissaries; but since their own decrees are subject to the review of the courts of session or justiciary, they are, in that respect, inferior courts.

4. Jurisdiction is either civil or criminal: by the first, questions of private right are decided; by the other, crimes are punished. But, in all jurisdiction, though

merely

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Ample.

Jurisdiction

King the
fountain of
jurisdiction.

Distinc-
tions of ju-
isdiction.

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Scotland.Law of
Scotland.

merely civil, there is a power inherent in the judge to punish either corporally, or by a pecuniary fine, those who offend during the proceedings of the court, or who shall afterwards obstruct the execution of the sentence.

5. Jurisdiction is either privative or cumulative. Privative jurisdiction, is that which belongs only to one court, to the exclusion of all others. Cumulative, otherwise called *concurrent*, is that which may be exercised by any one of two or more courts, in the same cause. In civil cumulative jurisdiction, the private pursuer has the right of election before which of the courts he shall sue; but as, in criminal questions which are prosecuted by a public officer of court, a collision of jurisdiction might happen, through each of the judges claiming the exercise of their right, that judge, by whose warrant the delinquent is first cited or apprehended (which is the first step of jurisdiction), acquires thereby (*jure preventionis*) the exclusive right of judging in the cause.

6. All rights of jurisdiction, being originally granted in consideration of the fitness of the grantee, were therefore personal, and died with himself. But, upon the introduction of the feudal system, certain jurisdictions were annexed to lands, and descended to heirs, as well as the lands to which they were annexed; but now all heritable jurisdictions, except those of admiralty and a small pittance reserved to barons, are either abolished, or resumed and annexed to the crown.

7. Jurisdiction is either proper or delegated. Proper jurisdiction, is that which belongs to a judge or magistrate himself, in virtue of his office. Delegated, is that which is communicated by the judge to another who acts in his name, called a *depute* or *deputy*. Where a deputy appoints one under him, he is called a *substitute*. No grant of jurisdiction, which is an office requiring personal qualifications, can be delegated by the grantee to another, without an express power in the grant.

Civil jurif-
diction,
wherein
founded.

8. Civil jurisdiction is founded, 1. *Ratione domicilii*, if the defender has his domicile within the judge's territory. A domicile is the dwelling place where a person lives with an intention to remain; and custom has fixed it as a rule, that residence for 40 days founds jurisdiction. If one has no fixed dwelling place, e. g. a soldier, or a travelling merchant, a personal citation against him within the territory is sufficient to found the judge's jurisdiction over him, even in civil questions. As the defender is not obliged to appear before a court to which he is not subject, the pursuer must follow the defender's domicile.

9. It is founded, 2. *Ratione rei sitæ*, if the subject in question lie within the territory. If that subject be immoveable, the judge, whose jurisdiction is founded in this way, is the sole judge competent, excluding the judge of the domicile.

Letters of
supplement

10. Where one, who has not his domicile within the territory, is to be sued before an inferior court *ratione rei sitæ*, the court of session must be applied to, whose jurisdiction is universal, and who, of course, grants letters of supplement to cite the defender to appear before the inferior judge. Where the party to be sued resides in another kingdom, and has an estate in this, the court of session is the only proper court, as the *commune forum* to all persons residing abroad; and the

defender, if his estate be heritable, is considered as lawfully summoned to that court, by a citation at the market-cross of Edinburgh, and pier and shore of Leith: but where a stranger, not a native of Scotland, has only a moveable estate in this kingdom, he is deemed to be so little subject to the jurisdiction of our courts, that action cannot be brought against him till his effects be first attached by an arrestment *jurisdictionis fundandæ causa*; which is laid on by a warrant issuing from the supreme courts of session, or admiralty, or from that within whose territory the subject is situated, at the suit of the creditor.

11. A judge may, in special cases, arrest or secure the persons of such as have neither domicile nor estate within his territory, even for civil debts. Thus, on the border between Scotland and England, warrants are granted of course by the judge-ordinary of either side, against those who have their domicile upon the opposite side, for arresting their persons, till they give caution *judicio fisci*: and even the persons of citizens or natives may be so secured, where there is just reason to suspect that they are *in meditatione fugæ*, i. e. that they intend suddenly to withdraw from the kingdom; upon which suspicion, the creditor who applies for the warrant must make oath. An inhabitant of a borough-royal, who has furnished one who lives without the borough in meat, clothes, or other merchandize, and who has no security for it but his own account-book, may arrest his debtor, till he give security *judicio fisci*.

12. A judge may be declined, i. e. his jurisdiction disowned judicially, 1. *Ratione causæ*, from his incompetency to the special cause brought before him. 2. *Ratione suspecti judicis*; where either the judge himself, or his near kinsman, has an interest in the suit. No judge can vote in the cause of his father, brother, or son, either by consanguinity or affinity; nor in the cause of his uncle or nephew by consanguinity. 3. *Ratione privilegii*; where the party is by privilege exempted from their jurisdiction.

Grounds of
declinature.

13. Prorogated jurisdiction (*jurisdictio in consentientibus*) is that which is, by the consent of parties, conferred upon a judge, who, without such consent, would be incompetent. Where a judge is incompetent, every step he takes must be null, till his jurisdiction be made competent by the party's actual submission to it. It is otherwise where the judge is competent, but may be declined by the party upon privilege.

Prorogated
jurisdiction.

14. In order to prorogation, the judge must have jurisdiction, such as may be prorogated. Hence, prorogation cannot be admitted where the judge's jurisdiction is excluded by statute. Yet where the cause is of the same nature with those to which the judge is competent, though law may have confined his jurisdiction within a certain sum, parties may prorogate it above that sum unless where prorogation is prohibited. Prorogation is not admitted in the king's causes; for the interest of the crown cannot be hurt by the negligence of its officers.

15. All judges must at their admission swear, 1. The oath of allegiance, and subscribe the assurance; 2. The oath of abjuration; 3. The oath of supremacy; lastly, The oath *de fidei administratione*.

Oaths of
judges.

16. A party who has either properly declined the jurisdiction of the judge before whom he had been cited, or who thinks himself aggrieved by any proceedings

Letters of
advocation.

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ings in the cause, may, before decree, apply to the court of session to issue letters of advocation for calling the action from before the inferior court to themselves. The grounds, therefore, upon which a party may pray for letters of advocation, are incompetency and iniquity. Under incompetency, is comprehended not only defect of jurisdiction, but all the grounds of declining a jurisdiction, in itself competent, arising either from suspicion of the judge, or privilege in the parties. A judge is said to commit iniquity, when he either delays justice, or pronounces sentence, in the exercise of his jurisdiction, contrary to law.

Advocation
how limited.

17. That the court of session may not waste their time in trifles, no cause for a sum below twelve pounds Sterling can be advocated to the court of session from the inferior judge competent: but if an inferior judge shall proceed upon a cause to which he is incompetent, the cause may be carried from him by advocation, let the subject be ever so inconsiderable.

clvii. SECT. II. *Of the supreme judges and courts of Scotland.*

King,
and

1. THE king, who is the fountain of jurisdiction, might by our constitution have judged in all causes, either in his own person, or by those whom he was pleased to vest with jurisdiction.

Parliament.

2. The parliament of Scotland, as our court of the last resort, had the right of reviewing the sentences of all our supreme courts.

Parliament
of Great
Britain.

3. By the treaty of union, 1707, the parliaments of Scotland and England are united into one parliament of Great Britain. From this period, the British house of peers, as coming in place of the Scots parliament, is become our court of the last resort, to which appeals lie from all the supreme courts of Scotland: but that court has no original jurisdiction in civil matters, in which they judge only upon appeal. By art. 22. of that treaty, the Scots share of the representation in the house of peers is fixed to 16 Scots peers elective; and in the house of commons, to 45 commoners, of which 30 are elected by the freeholders of counties, and 15 by the royal boroughs. The Scots privy council was also thereupon abolished, and sunk into that of Great Britain, which for the future is declared to have no other powers than the English privy council had at the time of the union.

Court of
Session.

4. A court was erected in 1425, consisting of certain persons to be named by the king, out of the three estates of parliament, which was vested with the jurisdiction formerly lodged in the council, and got the name of the *session*, because it was ordained to hold annually a certain number of sessions at the places to be specially appointed by the king. This court had a jurisdiction, cumulative with the judge ordinary, in spuilzies, and other possessory actions, and in debts; but they had no cognisance in questions of property of heritable subjects. No appeal lay from its judgments to the parliament. The judges of this court served by rotation, and were changed from time to time, after having sat 40 days; and became so negligent in the administration of justice, that it was at last thought necessary to transfer the jurisdiction of this court to a council to be named by the king, called the *daily council*.

N^o 177.

5. The present model of the court of session, or college of justice, was formed in the reign of James V. The judges thereof, who were vested with an universal civil jurisdiction, consisted originally of seven churchmen, seven laymen, and a president, whom it behoved to be a prelate; but spiritual judges were in 1584 partly, and in 1640 totally, prohibited. The judges of session have been always received by warrants from the crown. Anciently his majesty seems to have transferred to the court itself the right of choosing their own president; and in a sederunt recorded June 26. 1593. the king condescended to present to the lords, upon every vacancy in the bench, a list of three persons, out of which they were to choose one. But his majesty soon resumed the exercise of both rights, which continued with the crown till the usurpation; when it was ordained, that the king should name the judges of the session, by the advice of parliament. After the restoration, the nomination was again declared to be solely in the sovereign.

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Scotland.
College of
justice.

6. Though judges may, in the general case, be named at the age of 21 years, the lords of session must be at least 25. No person can be named lord of session, who has not served as an advocate or principal clerk of session for five years, or as a writer to the signet for ten: and in the case of a writer to the signet, he must undergo the ordinary trials upon the Roman law, and be found qualified two years before he can be named. Upon a vacancy in the bench, the king presents the successor by a letter addressed to the lords, wherein he requires them to try and admit the person presented. The powers given to them to reject the presentee upon trial are taken away, and a bare liberty to remonstrate substituted in its place.

Their qualifications
and trial.

7. Besides the 15 ordinary judges, the king was allowed to name three or four lords of his great council, who might sit and vote with them. These extraordinary lords were suppressed in the reign of Geo. I.

8. The appellation of the *college of justice* is not confined to the judges, who are distinguished by the name of *senators*; but comprehends advocates, clerks of session, writers to the signet, and others, as described, *At S.* 23d Feb. 1687. Where, therefore, the college of justice is intitled to any privilege, it extends to all the members of the college. They are exempted from watching, warding, and other services within borough; and from the payment of ministers stipends, and of all customs, &c. imposed upon goods carried to or from the city of Edinburgh. Part of these privileges and immunities were lately called in question by the city of Edinburgh; but they were found by the court of session (affirmed upon appeal) to be in full force.

Privileges
of the college of
justice.

9. Though the jurisdiction of the session be properly limited to civil causes, the judges have always sustained themselves as competent to the crime of falsehood. Where the falsehood deserves death or dememoration, they, after finding the crime proved, remit the criminal to the court of justiciary. Special statute has given to the court of session jurisdiction in contraventions of law-burrows, deforcements, and breach of arrestment; and they have been in use to judge in battery *pendente lite*, and in usury.

Jurisdiction
of the session.

10. In certain civil causes, the jurisdiction of the session is exclusive of all inferior jurisdictions; as in declarators of property, and other competitions of heritable

table

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table rights, provings of the tenor, *cessiones bonorum*, restitution of minors, reductions of decrees or writings, sales of the estates of minors or bankrupts, &c. In a second class of causes, their jurisdiction can be only exercised in the way of review, after the cause is brought from the inferior court; as in maritime and consistorial causes, which must be pursued in the first instance before the admiral or commissary; and in actions below twelve pounds Sterling, which must be commenced before the judge-ordinary. In all civil actions, which fall under neither of these classes, the jurisdiction of the session is concurrent, even in the first instance, with that of the judge-ordinary. The session may proceed as a court of equity by the rules of conscience, in abating the rigour of law, and giving aid in proper cases to such as in a court of law can have no remedy: and this power is inherent in the supreme court of every country, where separate courts are not established for law and for equity.

This court formerly met upon the 12th day of June and rose upon the 11th day of August for the summer session; but now, in consequence of an act passed in the session of parliament 1790, it meets on the 12th of May and rises on the 11th of July for the summer session; the winter sederunt still remaining as formerly, viz. from the 12th of November to the 11th of March inclusive.

Justiciary
court.

11. The supreme criminal judge was styled the Justiciar; and he had anciently an universal civil jurisdiction, even in matters of heritage. He was obliged to hold two justice courts or ayres yearly at Edinburgh or Peebles, where all the freeholders of the kingdom were obliged to attend. Besides this universal court, special justice-ayres were held in all the different shires in the kingdom twice in the year. These last having gone into disuse, eight deputies were appointed, two for every quarter of the kingdom, who should make their circuits over the whole in April and October.

12. The office of deputies was suppressed in 1672; and five lords of session were added, as commissioners of justiciary, to the justice-general and justice-clerk. The justice-general, if present, is constant president of the court, and in his absence the justice-clerk. The kingdom is divided into three districts, and two of the judges are appointed to hold circuits in certain boroughs of each district twice in the year; one judge may proceed to business in the absence of his colleague. In trials before this court the evidence was always taken down in writing till the act 23d Geo. III. was passed; by which the judges may try and determine all causes by the verdict of an assize upon examining the witnesses *viva voce* without reducing the testimony into writing, unless it shall appear more expedient to proceed in the former way, which they have it in their power to do. This act was at first temporary, but is now made perpetual by 27th Geo. III. cap. 18.

13. By an old statute, the crimes of robbery, rape, murder, and wilful fire-raising, (the four pleas of the Crown), are said to be reserved to the King's court of justiciary; but the only crime in which, *de praxi*, the jurisdiction of justiciary became at last exclusive of all inferior criminal jurisdiction, was that of high treason. The court of justiciary, when sitting at Edinburgh, has a power of advocating causes from all inferior criminal judges, and of suspending their sentences.

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14. The circuit-court can also judge in all criminal causes which do not infer death or dememoration, upon appeal from any inferior court within their district; and has a supreme civil jurisdiction, by way of appeal, in all causes not exceeding twelve pounds Sterling, in which their decrees are not subject to review; but no appeal is to lie to the circuit, till the cause be finally determined in the inferior court.

15. The court of exchequer, as the King's chamber Court of berlain court, judged in all questions of the revenue. In pursuance of the treaty of Union, that court was abolished, and a new court erected, consisting of the Lord High Treasurer of Great Britain, and a chief Baron, with four other Barons of Exchequer; which Barons are to be made of serjeants at law, English barristers, or Scots advocates of five years standing. This court has a privative jurisdiction conferred upon it, as to the duties of customs, excise, or other revenues appertaining to the king or prince of Scotland, and as to all honours and estates that may accrue to the crown; in which matters, they are to judge by the forms of proceeding used in the English court of exchequer, under the following limitations; that no debt due to the crown shall affect the debtor's real estate in any other manner than such estate may be affected by the laws of Scotland, and that the validity of the crown's titles to any honours or lands shall continue to be tried by the court of session. The barons have the powers of the Scots court transferred to them, of passing the accounts of sheriffs, or other officers who have the execution of writs issuing from, or returnable to, the court of exchequer, and of receiving resignations, and passing signatures of charters, gifts of casualties, &c. But tho' all these must pass in exchequer, it is the court of session only who can judge of their preference after they are completed.

16. The jurisdiction of the admiral in maritime Admiralty causes was of old concurrent with that of the session court. The high-admiral is declared the king's justice general upon the seas, on fresh water within flood-mark, and in all harbours and creeks. His civil jurisdiction extends to all maritime causes; and so comprehends questions of charter-parties, freights, salvages, bottomries, &c. He exercises this supreme jurisdiction by a delegate, the judge of the high court of admiralty; and he may also name inferior deputies, whose jurisdiction is limited to particular districts, and whose sentences are subject to the review of the high court. In causes which are declared to fall under the admiral's cognizance, his jurisdiction is sole; in so much, that the session itself, though it may review his decrees by suspension or reduction, cannot carry a maritime question from him by advocacy. The admiral has acquired, by usage, a jurisdiction in mercantile causes, even where they are not strictly maritime, cumulative with that of the judge-ordinary.

17. All our supreme courts have seals or signets, proper to their several jurisdictions. The courts of session and justiciary used formerly the same signet, which was called the king's, because the writs issuing from thence run in the king's name; and though the justiciary got at last a separate signet for itself, yet that of the session still retains the appellation of the *king's signet*. In this office are sealed summonses for citation, letters of ex-
cutorial diligence, or for staying or prohibiting of dili-
gence

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gence, and generally whatever passes by the warrant of the session, and is to be executed by the officers of the court. All these must, before sealing, be signed by the writers or clerks of the signet: But letters of diligence, where they are granted in a depending process, merely for probation, though they pass by the signet, must be subscribed by a clerk of session. The clerks of the signet also prepare and subscribe all signatures of charters, or other royal grants, which pass in exchequer.

clviii. SECT. III. *Of the inferior judges and courts of Scotland.*

Sheriff.

SHERIFF, (from *reeve*, governor, and *sheer* to cut or divide), is the judge-ordinary constituted by the crown over a particular division or county. The sheriff's jurisdiction, both civil and criminal, was, in ancient times, nearly as ample within his own territory as that of the supreme courts of session and justiciary was over the whole kingdom.

2. His civil jurisdiction now extends to all actions upon contracts, or other personal obligations; forthcomingings, poindings of the ground, mails and duties; and to all possessory actions, as removings, ejections, spuilzies, &c.; to all briefs issuing from the chancery, as of inquest, terce, division, tutory, &c.; and even to adjudications of land estates, when proceeding on the renunciation of the apparent heir. His present criminal jurisdiction extends to certain capital crimes, as theft, and even murder, though it be one of the pleas of the crown; and he is competent to most questions of public police, and has a cumulative jurisdiction with justices of the peace in all riots and breaches of the peace.

3. Sheriffs have a ministerial power, in virtue of which they return juries, in order to the trial of causes that require juries. The writs for electing members of parliament have been, since the union, directed to the sheriffs, who, after they are executed, return them to the crown-office from whence they issued. They also execute writs issuing from the court of exchequer; and in general, take care of all estates, duties, or casualties that fall to the crown within their territory, for which they must account to the exchequer.

Lord of re-
gality.

4. A lord of regality was a magistrate who had a grant of lands from the sovereign, with royal jurisdiction annexed thereto. His civil jurisdiction was equal to that of a sheriff; his criminal extended to the four pleas of the crown. He had a right to repledge or reclaim all criminals, subject to his jurisdiction, from any other competent court, though it were the justiciary itself, to his own. He had also right, according to the most common opinion, to the single escheat of all denounced persons residing within his jurisdiction, even though such privilege had not been expressed in the grant of regality.

Stewart.

5. The steward was the magistrate appointed by the king over such regality lands as happened to fall to the crown by forfeiture, &c. and therefore the steward's jurisdiction was equal to that of a regality. The two stewartries of Kirkcudbright, and of Orkney and Zetland, make shires or counties by themselves, and send each a representative to parliament.

Baillie.

6. Where lands not erected into a regality fell into the king's hands, he appointed a baillie over them, whose jurisdiction was equal to that of a sheriff.

7. By the late jurisdiction-act, 20 Geo. II. all heritable regalities and baileries, and all such heritable sheriffships and stewartries as were only parts of a shire, are dissolved; and the powers formerly vested in them are made to devolve upon such of the king's courts as these powers would have belonged to if the jurisdictions dissolved had never been granted. All sheriffships and stewartries that were no part of a shire, where they had been granted, either heritably or for life, are resumed and annexed to the crown. No high sheriff or steward can hereafter judge personally in any cause. One sheriff or steward-depute is to be appointed by the king in every shire, who must be an advocate of three years standing; and whose office as sheriff or steward-depute is now by 28. Geo. II. held *ad vitam aut culpam*.

8. The appanage, or patrimony, of the prince of Scotland, has been long erected into a regality-jurisdiction, called the Principality. It is personal to the king's eldest son, upon whose death or succession it returns to the crown. The prince has, or may have, his own chancery, from which his writs issue, and may name his own chamberlain and other officers for receiving and managing his revenue. The vassals of the princes are intitled to elect, or to be elected, members of parliament for counties, equally with those who hold of the crown.

Prince of
Scotland.

9. Justices of the peace are magistrates named by the sovereign over the several counties of the kingdom, for the special purpose of preserving the public peace. Anciently their power reached little farther than to bind over disorderly persons for their appearance before the privy council or justiciary; afterwards they were authorised to judge in breaches of the peace, and in most of the laws concerning public policy. They may compel workmen or labourers to serve for a reasonable fee, and they can condemn masters in the wages due to their servants. They have power to judge in questions of highways, and to call out the tenants with their cottars and servants to perform six days work yearly for upholding them. It has been lately, however, found by the court of session, that justices have no jurisdiction whatever in common actions for debt. So that it now seems fixed, that they are incompetent in such actions, except where they are declared competent by special statute.

10. Since the union, our justices of the peace, over and above the powers committed to them by the laws of Scotland, are authorised to exercise whatever belonged to the office of an English justice, in relation to the public peace. From that time, the Scots and the English commissions have run in the same style, which contain powers to inquire into and judge in all capital crimes, witchcrafts, felonies, and several others specially enumerated; with this limitation subjoined, *of which justices of the peace may lawfully inquire*. Two justices can constitute a court. Special statute has given the cognizance of several matters of excise to the justices, in which their sentences are final. As to which, and the powers thereby vested in them, the reader must of necessity be referred to the excise laws; it not falling within the plan of this work, to enter into so very minute a detail as that would prove.

11. A borough is a body-corporate, made up of the inhabitants of a certain tract of ground erected by the sovereign, with jurisdiction annexed to it. Bo-
roughs

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roughs are erected, either to be holden of the sovereign himself, which is the general case of royal boroughs; or of the superior of the lands erected, as boroughs of regality and barony. Boroughs royal have power, by their charters, to choose annually certain office-bearers or magistrates; and in boroughs of regality and barony, the nomination of magistrates is, by their charter, lodged sometimes in the inhabitants, sometimes in the superior. Bailies of boroughs have jurisdiction in matters of debt, services, and questions of possession betwixt the inhabitants. Their criminal jurisdiction extends to petty riots, and reckless fire raising. The dean of guild is that magistrate of a royal borough who is head of the merchant-company; he has the cognizance of mercantile causes within borough; and the inspection of buildings, that they encroach neither on private property, nor on the public streets; and he may direct insufficient houses to be pulled down. His jurisdiction has no dependence on the court of the borough, or bailie-court.

Barons.

12. A baron, in the large sense of that word, is one who holds his lands immediately of the crown; and, as such, had, by our ancient constitution, right to a seat in parliament, however small his freehold might have been. The lesser barons were exempted from the burden of attending the service of parliament. This exemption grew insensibly into an utter disability in all the lesser barons from sitting in parliament, without election by the county; though no statute is to be found expressly excluding them.

13. To constitute a baron in the strict law-sense, his lands must have been erected, or at least confirmed, by the king, *in liberam baroniam*; and such baron had a certain jurisdiction, both civil and criminal, which he might have exercised, either in his own person, or by his bailie.

14. By the late jurisdiction-act, the civil jurisdiction of a baron is reduced to the power of recovering, from his vassals and tenants, the rents of his lands, and of condemning them in mill-services; and of judging in causes where the debt and damages do not exceed 40 s. Sterling. His criminal jurisdiction is, by the same statute, limited to assaults, batteries, and other smaller offences, which may be punished by a fine not exceeding 20 s. Sterling, or by setting the offender in the stocks in the day-time not above three hours; the fine to be levied by poinding, or one month's imprisonment. The jurisdiction formerly competent to proprietors of mines, and coal or salt works, over their workmen, is reserved; and also that which was competent to proprietors who had the right of fairs or markets, for correcting the disorders that might happen during their continuance; provided they shall exercise no jurisdiction inferring the loss of life or demeritation.

Constabularies.

15. The high constable of Scotland had no fixed territorial jurisdiction, but followed the court; and had, jointly with the marischal, the cognizance of all crimes committed within two leagues of it. All other constabularies were dependent on him: these had castles, and sometimes boroughs, subject to their jurisdiction, as Dundee, Montrose, &c. and among other powers, now little known, they had the right of exercising criminal jurisdiction within their respective territories du-

ring the continuance of fairs. By the late jurisdiction-act, all jurisdictions of constabulary are dissolved, except that of high-constable.

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16. The office of the Lyon King of arms was chiefly ministerial, to denounce war, proclaim peace, carry public messages, &c. But he has also a right of jurisdiction, whereby he can punish all who usurp arms contrary to the law of arms, and deprive or suspend messengers, heralds, or pursuivants, (who are officers named by himself); but he has no cognizance of the damage arising to the private party through the messenger's fault. Messengers are subservient to the supreme courts of session and justiciary; and their proper business is to execute all the king's letters either in civil or criminal causes. They must find caution for the proper discharge of their duty *qua* messengers; and in case of any malversation, or neglect, by which damage arises to their employers, their sureties may be required upon for indemnification. These sureties, however, are not answerable for the conduct of the messenger in any other capacity but *qua* such; and therefore, if a messenger is authorized to uplift payment from a debtor, and fails to account to his employer, the cautioner is not liable; his obligation extending only to the regular and proper duties of the office in executing the diligence, or the like.

17. Our judges had, for a long time, no other salaries or appointments than what arose from the sentences they pronounced. Our criminal judges applied to their own use the fines or issues of their several courts; and regalities had a right to the single escheat of all persons denounced, who resided within their jurisdiction; and our civil judges got a certain proportion of the sum contained in the decree pronounced. But these were all prohibited upon regular salaries being settled upon them.

Sentence-money.

SECT. V. Of ecclesiastical persons.

clix.

THE Pope, or bishop of Rome, was long acknowledged, over the western part of Christendom, for the head of the Christian church. The papal jurisdiction was abolished in Scotland *anno* 1560. The king was, by act 1669, declared to have supreme authority over all persons, and in all causes ecclesiastical; but this act was repealed by 1690, as inconsistent with Presbyterian church-government, which was then upon the point of being established.

The pope.

2. Before the reformation from Popery, the clergy was divided into secular and regular. The secular had a particular tract of ground given them in charge, within which they exercised the pastoral office of bishop, presbyter, or other church-officer. The regular clergy had no cure of souls; but were tied down to residence in their abbacies, priories, or other monasteries: and they got the name of *regular*, from the rules of mortification to which they were bound, according to the institution of their several orders. Upon the vacancy of any benefice, whether secular or regular, commendators were frequently appointed to levy the fruits, as factors or stewards during the vacancy. The Pope alone could give the higher benefices *in commendam*; and at last, from the plenitude of his power, he came to name commendators for life, and without any obli-

Clergy.

gation to account. After the reformation, several abacies and priories were given by James VI. *in perpetuam commendam*, to laics.

3. Upon abolishing the Pope's authority, the regular clergy were totally suppressed; and, in place of all the different degrees which distinguished the secular clergy, we had at first only parochial presbyters or ministers, and superintendants, who had the oversight of the church within a certain district: soon thereafter the church-government became episcopal by archbishops, bishops, &c.; and after some intermediate turns, is now presbyterian by kirk-sessions, presbyteries, synods, and general assemblies.

4. Prelate, in our statutes, signifies a bishop, abbot, or other dignified clergyman, who in virtue of his office had a seat in parliament. Every bishop had his chapter, which consisted of a certain number of the ministers of the diocese, by whose assistance he managed the affairs of the church within that district. The nomination of bishops to vacant sees has been in the crown since 1540, though under the appearance of continuing the ancient right of election, which was in the chapter. The confirmation by the crown under the great seal, of the chapter's election, conferred a right to the spirituality of the benefice; and a second grant, upon the consecration of the bishop-elect, gave a title to the temporality; but this second grant fell soon into disuse.

Patronage.

5. He who founded or endowed a church was intitled to the right of patronage thereof, or *advocatio ecclesie*; whereby, among other privileges, he might present a churchman to the cure, in case of a vacancy. The presentee, after he was received into the church, had a right to the benefice *proprio jure*; and if the church was parochial, he was called a *parson*. The Pope claimed the right of patronage of every kirk to which no third party could shew a special title; and, since the reformation, the crown, as coming in place of the Pope, is considered as universal patron, where no right of patronage appears in a subject. Where two churches are united, which had different patrons, each patron presents by turns.

6. Gentlemen of estates frequently founded colleges or collegiate churches; the head of which got the name of *provost*, under whom were certain prebendaries, or canons, who had their several stalls in the church, where they sung masses. Others of lesser fortunes founded chaplainries, which were donations granted for the singing of masses for deceased friends at particular altars in a church. Though all these were suppressed upon the reformation, their founders continued patrons of the endowments; out of which they were allowed to provide bursars, to be educated in any of the universities.

7. Where a fund is gifted for the establishment of a second minister in a parish where the cure is thought too heavy for one, the patronage of such benefice does not belong to the donor, but to him who was patron of the church, unless either where the donor has reserved to himself the right of patronage in the donation, or where he and his successors have been in the constant use of presenting the second minister, without challenge from the patron. The right of presenting incumbents was by 1690, c. 23. taken from patrons, and vested in the heritors and elders of the parish, upon

payment to be made by the heritors to the patron of 600 merks; but it was again restored to patrons, 10 An. c. 12. with the exception of the presentation sold in pursuance of the former act.

8. Patrons were not simply administrators of the church; for they held the fruits of the vacant benefice as their own, for some time after the reformation. But that right is now no more than a trust in the patron, who must apply them to pious uses within the parish, at the sight of the heritors, yearly as they fall due. If he fail, he loses his right of administering the vacant stipend for that and the next vacancy. The king, who is exempted from this rule, may apply the vacant stipend of his churches to any pious use, though not within the parish. If one should be ordained to a church, in opposition to the presentee, the patron, whose civil right cannot be affected by any sentence of a church-court, may retain the stipend as vacant. Patrons are to this day intitled to a seat and burial-place in the churches of which they are patrons, and to the right of all the teinds of the parish not heritably disposed.

9. That kirks may not continue too long vacant, the patron must present to the presbytery (formerly to the bishop), a fit person for supplying the cure, within six months from his knowledge of the vacancy, otherwise the right of presentation accrues to the presbytery *jure devoluto*. Upon presentation by the patron, the bishop collated or conferred the benefice upon the presentee by a writing, in which he appointed certain ministers of the diocese to induce or institute him into the church; which induction completed his right, and was performed by their placing him in the pulpit, and delivering to him the bible and keys of the church. The bishop collated to the churches of which himself was patron, *pleno jure*, or without presentation; which he also did in mensal churches, whose patronages were sunk, by the churches being appropriated to him, as part of his patrimony. Since the revolution, a judicial act of admission by the presbytery, proceeding either upon a presentation, or upon a call from the heritors and elders, or upon their own *jus devolutum*, completes the minister's right to the benefice.

10. Soon after the reformation, the Popish churchmen were prevailed upon to resign in the sovereign's hands a third of their benefices; which was appropriated, in the first place, for the subsistence of the reformed clergy. To make this fund effectual, particular localities were assigned in every benefice, to the extent of a third, called the *assumption of thirds*; and for the farther support of ministers, Queen Mary made a grant in their favour of all the small benefices not exceeding 300 merks. Bishops, by the act which restored them to the whole of their benefices, were obliged to maintain the ministers within their dioceses, out of the thirds; and in like manner, the laic titulars, who got grants of the teinds, became bound, by their acceptance thereof, to provide the kirks within their erections in competent stipends.

11. But all those expedients for the maintenance of the clergy having proved ineffectual, a commission of parliament was appointed in the reign of James VI. for planting kirks, and modifying stipends to ministers out of the teinds; and afterwards several other commissions were appointed, with the more ample powers of

Provision
for the re-
formed
clergy.

Commis-
sion for
planting
kirks, va-
luing
teinds, &c.
of

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of dividing large parishes, erecting new ones, &c. all of which were, in 1707, transferred to the court of session, with this limitation, that no parish should be disjoined, nor new church erected, nor old one removed to a new place, without the consent of three-fourths of the heritors, computing the votes, not by their numbers, but by the valuation of their rents within the parish. The judges of session, when sitting in that court, are considered as a commission of parliament, and have their proper clerks, macers, and other officers of court, as such.

Stipends.

12. The lowest stipend that could be modified to a minister by the first commission, was 500 merks, or five chalders of victual, unless where the whole teinds of the parish did not extend so far: and the highest was 1000 merks, or ten chalders. The parliament 1633 raised the *minimum* to eight chalders of victual, and proportionably in silver; but as neither the commission appointed by that act, nor any of the subsequent ones, was limited as to the *maximum*, the commissioners have been in use to augment stipends considerably above the old *maximum*, where there is sufficiency of free teinds, and the cure is burdensome, or living expensive.

13. Where a certain quantity of stipend is modified to a minister out of the teinds of a parish, without proportioning that stipend among the several heritors, the decree is called a *decree of modification*: but where the commissioners also fix the particular proportions payable by each heritor, it is a decree of *modification and locality*. Where a stipend is only modified, it is secured on the whole teinds of the parish, so that the minister can insist against any one heritor to the full extent of his teinds; such heritor being always intitled to relief against the rest for what he shall have paid above his just share: but where the stipend is also localled, each heritor is liable in no more than his own proportion.

Manse.

14. Few of the reformed ministers were, at first, provided with dwelling-houses; most of the Popish clergy having, upon the first appearance of the reformation, let their manse in feu, or in long tacks: ministers therefore got a right, in 1563, to as much of these manse as would serve them, notwithstanding such feus or tacks. Where there was no parson's nor vicar's manse, one was to be built by the heritors, at the sight of the bishop, (now the presbytery), the charge not exceeding L. 1000 Scots, nor below 500 merks. Under a manse are comprehended stable, barn, and byre, with a garden; for all which it is usual to allow half an acre of ground.

15. Every incumbent is intitled at his entry to have his manse put in good condition; for which purpose, the presbytery may appoint a visitation by tradesmen, and order estimates to be laid before them of the sums necessary for the repairing, which they may proportion among the heritors according to their valuations. The presbytery, after the manse is made sufficient, ought, upon application of the heritors, to declare it a free manse; which lays the incumbent under an obligation to uphold it in good condition during his incumbency, otherwise he or his executors shall be liable in damages; but they are not bound to make up the loss arising from the necessary decay of the building by the waste of time.

16. All ministers, where there is any landward or country parish, are, over and above their stipend, intitled to a glebe, which comprehends four acres of arable land, or sixteen fowms of pasture-ground where there is no arable land (a fowm is what will graze ten sheep or one cow); and it is to be designed or marked by the bishop or presbytery out of such kirklands within the parish as lie nearest to the kirk, and, in default of kirk-lands, out of temporal lands.

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Glebe, and

17. A right of relief is competent to the heritors, whose lands are set off for the manse or glebe, against the other heritors of the parish. Manses and glebes, being once regularly designed, cannot be feued or sold by the incumbent in prejudice of his successors, which is in practice extended even to the case where such alienation evidently appears profitable to the benefice.

18. Ministers, beside their glebe, are intitled to grafs for a horse and two cows. And if the lands, out of which the grafs may be designed, either lie at a distance, or are not fit for pasture, the heritors are to pay to the minister L. 20 Scots yearly as an equivalent. Ministers have also freedom of foggage, pasturage, fuel, feal, divot, loaning, and free ish and entry, according to use and wont: but what these privileges are, must be determined by the local custom of the several parishes.

Grafs.

19. The legal terms at which stipends become due to ministers are Whitsunday and Michaelmas. If the incumbent be admitted to his church before Whitsunday (till which term the corns are not presumed to be fully sown), he has right to that whole year's stipend; and, if he is received after Whitsunday, and before Michaelmas, he is intitled to the half of that year; because, though the corns were sown before his entry, he was admitted before the term at which they are presumed to be reaped. By the same reason, if he dies or is transported before Whitsunday, he has right to no part of that year; if before Michaelmas, to the half; and if not till after Michaelmas, to the whole.

Terms of
payment of
stipends.

20. After the minister's death, his executors have right to the annat; which, in the sense of the canon law, was a right reserved to the Pope, of the first year's fruits of every benefice. Upon a threatened invasion from England anno 1547, the annat was given by our parliament, notwithstanding this right in the Pope, to the executors of such churchmen as should fall in battle in defence of their country: but the word *annat* or *ann*, as it is now understood, is the right which law gives to the executors of ministers, of half a year's benefice over and above what was due to the minister himself for his incumbency.

Annat or
ann.

21. The executors of a minister need make up no title to the ann by confirmation: neither is the right assignable by the minister, or affectable with his debts; for it never belonged to him, but is a mere gratuity given by law to those whom it is presumed the deceased could not sufficiently provide; and law has given it expressly to *executors*: and if it were to be governed by the rules of succession in executory, the widow, in case of no children, would get one half, the other would go to the next of kin; and where there are children, she would be intitled to a third, and the other two thirds would fall equally among the children. But the court of session, probably led by the general practice,

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practice, have in this last case divided the ann into two equal parts, of which one goes to the widow, and the other among the children *in capita*.

22. From the great confidence that was, in the first ages of Christianity, reposed in churchmen, dying persons frequently committed to them the care of their estates, and of their orphan children; but these were simply rights of trust, not of jurisdiction. The clergy soon had the address to establish to themselves a proper jurisdiction, not confined to points of ecclesiastical right, but extending to questions that had no concern with the church. They judged not only in teinds, patronages, testaments, breach of vow, scandal, &c. but in questions of marriage and divorce, because marriage was a sacrament; in tochers, because these were given in consideration of marriage; in all questions where an oath intervened, on pretence that oaths were a part of religious worship, &c. As churchmen came, by the means of this extensive jurisdiction, to be diverted from their proper functions, they committed the exercise of it to their officials or commissaries: hence the commissary-court was called the *Bishop's Court*, and *Curia Christianitatis*; it was also stiled the *Consistorial Court*; from *consistory*, a name first given to the court of appeals of the Roman emperors, and afterwards to the courts of judicature held by churchmen.

Commissary.

23. At the reformation, all episcopal jurisdiction, exercised under the authority of the bishop of Rome, was abolished. As the course of justice in consistorial causes was thereby stopped, Q. Mary, besides naming a commissary for every diocese, did, by a special grant, establish a new commissary-court at Edinburgh, consisting of four judges or commissaries. This court is vested with a double jurisdiction; one diocesan, which is exercised in the special territory contained in the grant, *viz.* the counties of Edinburgh, Haddington, Linlithgow, Peebles, and a great part of Stirlingshire; and another universal, by which the judges confirm the testaments of all who die in foreign parts, and may reduce the decrees of all inferior commissaries, provided the reduction be pursued within a year after the decree. Bishops, upon their re-establishment in the reign of James VI. were restored to the right of naming their several commissaries.

24. As the clergy, in times of Popery, assumed a jurisdiction independent of the civil power or any secular court, their sentences could be reviewed only by the Pope, or judges delegated by him; so that, with regard to the courts of Scotland, their jurisdiction was supreme. But, by an act 1560, the appeals from our bishops courts, that were then depending before the Roman consistories, were ordained to be decided by the court of session: and by a posterior act, 1609, the session is declared the king's great consistory, with power to review all sentences pronounced by the commissaries. Nevertheless, since that court had no inherent jurisdiction in consistorial causes prior to this statute, and since the statute gives them a power of judging only by way of advocacy, they have not, to this day, any proper consistorial jurisdiction in the first instance; neither do they pronounce sentence in any consistorial cause brought from the commissaries, but remit it back to them with instructions. By the practice immediately subsequent to the act before quoted,

they did not admit advocations from the inferior commissaries, till the cause was first brought before the commissaries of Edinburgh; but that practice is now in disuse.

25. The commissaries retain to this day an exclusive power of judging in declarators of marriage, and of the nullity of marriage; in actions of divorce and of non-adherence, of adultery, bastardy, and confirmation of testaments; because all these matters are still considered to be properly consistorial. Inferior commissaries are not competent to questions of divorce, under which are comprehended questions of bastardy and adherence, when they have a connection with the lawfulness of marriage, or with adultery.

26. Commissaries have now no power to pronounce decrees in absence for any sum above L. 40 Scots, except in causes properly consistorial; but they may authenticate tutorial and curatorial inventories; and all bonds, contracts, &c. which contain a clause for registration in the books of any judge competent, and protests on bills, may be registered in their books.

SECT. VI. Of marriage.

clx.

PERSONS, when considered in a private capacity, are chiefly distinguished by their mutual relations; as husband and wife, tutor and minor, father and child, master and servant. The relation of husband and wife is constituted by marriage; which is the conjunction of man and wife, vowing to live inseparably till death. Marriage.

2. Marriage is truly a contract, and so requires the consent of parties. Idiots, therefore, and furious persons, cannot marry. As no person is presumed capable of consent within the years of pupillarity, which, by our law, lasts till the age of 14 in males, and 12 in females, marriage cannot be contracted by pupils; but if the married pair shall cohabit after puberty, such acquiescence gives force to the marriage. Marriage is fully perfected by consent; which, without consummation, founds all the conjugal rights and duties. The consent requisite to marriage must be *de presenti*. A promise of marriage (*stipulatio sponsalitia*) may be refiled from, as long as matters are entire; but if any thing be done by one of the parties, whereby a prejudice arises from the non-performance, the party refusing is liable in damages to the other. The canonists, and after them our courts of justice, explain a *copula* subsequent to a promise of marriage into actual marriage.

3. It is not necessary, that marriage should be celebrated by a clergyman. The consent of parties may be declared before any magistrate, or simply before witnesses: and though no formal consent should appear, marriage is presumed from the cohabitation, or living together at bed and board, of a man and woman who are generally reputed husband and wife. One's acknowledgment of his marriage to the midwife whom he called to his wife, and to the minister who baptized his child, was found sufficient presumptive evidence of marriage, without the aid either of cohabitation, or of *habite and repute*. The father's consent was, by the Roman law, essential to the marriage of children *in familia*: but, by our law, children may enter into marriage, without the knowledge, and even against the remonstrances, of a father.

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celebration.

4. Mar

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Forbidden
degrees.

4. Marriage is forbidden within certain degrees of blood. By the law of Moses (*Leviticus xviii.*), which, by the act 1567. c. 15. has been adopted by us, seconds in blood, and all remoter degrees, may all lawfully marry. By seconds in blood are meant first cousins. Marriage in the direct line is forbidden *in infinitum*; as it is also in the collateral line in the special case where one of the parties is *loco parentis* to the other, as grand-uncle, great grand-uncle, &c. with respect to his grand niece, &c. The same degrees that are prohibited in consanguinity, are prohibited in affinity; which is the tie arising from marriage, betwixt one of the married pair, and the blood relations of the other. Marriage also, where either of the parties is naturally unfit for generation, or stands already married to a third person, is *ipso jure* null.

Other
grounds of
nullity.

Proclama-
tion of
banns.

5. To prevent bigamy and incestuous marriages, the church has introduced proclamation of banns; which is the ceremony of publishing the names and designations of those who intend to intermarry, in the churches where the bride and bridegroom reside, after the congregation is assembled for divine service; that all persons who know any objection to the marriage may offer it. When the order of the church is observed, the marriage is called *regular*; when otherwise, *clandestine*. Marriage is valid when entered into in either of these ways; but when clandestine, there are certain penalties imposed upon the parties as well as the celebrator and witnesses.

Communi-
on of
goods.

6. By marriage, a society is created between the married pair, which draws after it a mutual communication of their civil interests, in as far as is necessary for maintaining it. As the society lasts only for the joint lives of the *focci*; therefore rights that have the nature of a perpetuity, which our law styles *heritable*, are not brought under the partnership or communion of goods; as a land-estate, or bonds bearing a yearly interest: it is only moveable subjects, or the fruits produced by heritable subjects during the marriage, that become common to man and wife.

Jus mariti.

7. The husband, as the head of the wife, has the sole right of managing the goods in communion, which is called *jus mariti*. This right is so absolute, that it bears but little resemblance to a right of administering a common subject. For the husband can, in virtue thereof, sell, or even gift, at his pleasure, the whole goods falling under communion; and his creditors may affect them for the payment of his proper debts: so that the *jus mariti* carries all the characters of an assignation, by the wife to her husband, of her moveable estate. It arises *ipso jure* from the marriage; and therefore needs no other constitution. But a stranger may convey an estate to a wife, so as it shall not be subject to the husband's administration; or the husband himself may, in the marriage-contract, renounce his *jus mariti* in all or any part of his wife's moveable estate.

Parapher-
nalia.

8. From this right are excepted paraphernal goods, which, as the word is understood in our law, comprehends the wife's wearing apparel, and the ornaments proper to her person; as necklaces, ear-rings, breast or arm jewels, buckles, &c. These are neither alienable by the husband, nor affectable by his creditors. Things of promiscuous use to husband and wife, as plate, medals, &c. may become paraphernal, by the

husband's giving them to the wife, at or before marriage; but they are paraphernal only in regard to that husband who gave them as such, and are esteemed common moveables, if the wife, whose *paraphernalia* they were, be afterwards married to a second husband; unless he shall in the same manner appropriate them to her.

9. The right of the husband to the wife's moveable estate, is burdened with the moveable debts contracted by her before marriage: and as his right is universal, so also is his burden; for it reaches to her whole moveable debts, though they should far exceed her moveable estate. Yet the husband is not considered as the true debtor in his wife's debts. In all actions for payment, she is the proper defender: the husband is only cited for his interest, that is, as curator to her, and administrator of the society-goods. As soon therefore as the marriage is dissolved, and the society-goods thereby suffer a division, the husband is no farther concerned in the share belonging to his deceased wife; and consequently is no longer liable to pay her debts, which must be recovered from her representatives, or her separate estate.

10. This obligation upon the husband is, however, perpetuated against him (1.) Where his proper estate, real or personal, has been affected, during the marriage, by complete legal diligence; in which case, the husband must, by the common rules of law, relieve his property from the burden with which it stands charged: but the utmost diligence against his person is not sufficient to perpetuate the obligation; nor even incomplete diligence against his estate. (2.) The husband continues liable, even after the wife's death, in so far as he is *lucratus* or profited by her estate: Still, however, the law does not consider a husband who has got but a moderate tocher with the wife as *lucratus* by the marriage; it is the excess only which it considers as *lucrum*, and that must be estimated by the quality of the parties and their condition of life.—As he was at no time the proper debtor in his wife's moveable debts; therefore, though he should be *lucratus*, he is, after the dissolution, only liable for them *subsidiarie*, i. e. if her own separate estate is not sufficient to pay them off.

11. Where the wife is debtor in that sort of debt, which, if it had been due to her, would have excluded the *jus mariti*, e. g. in bonds bearing interest, which, as we shall afterwards see (clxiii. 4.), continues heritable as to the rights of husband and wife, notwithstanding of the enactment of the statute 1661, which renders them moveable in certain other respects, the husband is liable only for the bygone interests, and those that may grow upon the debt during the marriage; because his obligation for her debts must be commensurated to the interest he has in her estate. It is the husband alone who is liable in personal diligence for his wife's debts, while the marriage subsists: the wife, who is the proper debtor, is free from all personal execution upon them while she is *vestita viro*.

12. The husband by marriage becomes the perpetual curator of the wife. From this right it arises, 1. That no suit can proceed against the wife till the husband be cited for his interest. 2. All deeds, done by a wife without the husband's consent, are null; neither can she sue in any action without the husband's con-

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concurrence. Yet where the husband refuses, or by reason of forfeiture, &c. cannot concur; or where the action is to be brought against the husband himself, for performing his part of the marriage articles; the judge will authorise her to sue in her own name. The effects arising from this curatorial power discover themselves even before marriage, upon the publication of banns; after which the bride, being no longer *sui juris*, can contract no debt, nor do any deed, either to the prejudice of her future husband, nor even to her own. But in order to this, it is necessary that the banns shall have been published in the bride's parish church as well as in that of her husband.

Separate alimony.

13. If the husband should either withdraw from his wife, or turn her out of doors; or if, continuing in family with her, he should by severe treatment endanger her life; the commissaries will authorise a separation *a mensa et thoro*, and give a separate alimony to the wife, suitable to her husband's estate, from the time of such separation until either a reconciliation or a sentence of divorce.

What obligations of the wife valid.

14. Certain obligations of the wife are valid, notwithstanding her being *sub cura mariti*; *ex. gr.* obligations arising from delict; for wives have no privilege to commit crimes. But if the punishment resolves into a pecuniary mulct, the execution of it must, from her incapacity to fulfil, be suspended till the dissolution of the marriage, unless the wife has a separate estate exempted from the *jus mariti*.

15. Obligations arising from contract, affect either the person or the estate. The law has been so careful to protect wives while *sub cura mariti*, that all personal obligations granted by a wife, though with the husband's consent, as bonds, bills, &c. are null; with the following exceptions: (1.) Where the wife gets a separate *peculium* or stock, either from her father or a stranger, for her own or her children's alimony, she may grant personal obligations in relation to such stock: and by stronger reason, personal obligations granted by a wife are good, when her person is actually withdrawn from the husband's power by a judicial separation. (2.) A wife's personal obligation, granted in the form of a deed *inter vivos*, is valid, if it is not to take effect till her death. (3.) Where the wife is by the husband *preposita negotiis*, intrusted with the management either of a particular branch of business or of his whole affairs, all the contracts she enters into in the exercise of her *prepositura* are effectual, even though they be not reduced to writing, but should arise merely *ex re*, from furnishings made to her: but such obligations have no force against the wife; it is the husband only, by whose commission she acts, who is thereby obliged.

Inhibition against a wife.

16. A wife, while she remains in family with her husband, is considered as *preposita negotiis domesticis*; and consequently may provide things proper for the family; for the price whereof the husband is liable, tho' they should be misapplied, or though the husband should have given her money to provide them elsewhere. A husband who suspects that his wife may hurt his fortune by high living, may use the remedy of inhibition against her; by which all persons are interpellated from contracting with her, or giving her credit. After the completing of this diligence, whereby the *prepositura* falls, the wife cannot bind the husband, un-

N^o 177.

less for such reasonable furnishings as he cannot instruct that he provided her with *aliunde*. As every man, and consequently every husband, has a right to remove his managers at pleasure, inhibition may pass at the suit of the husband against the wife, though he should not offer to justify that measure by an actual proof of the extravagance or profusion of her temper.

17. As to rights granted by the wife affecting her estate; she has no moveable estate, except her *paraphernalia*; and these she may alien or impignorate, with consent of the husband. She can, without the husband, bequeath by testament her share of the goods in communion; but she cannot dispose of them *inter vivos*; for she herself has no proper right to them while the marriage subsists. A wife can lawfully oblige herself, in relation to her heritable estate, with consent of her husband: for though her person is in some sense sunk by the marriage, she continues capable of holding a real estate; and in such obligations her estate is considered, and not her person. A husband, though he be curator to his wife, can, by his acceptance or intervention, authorise rights granted by her in his own favour: for a husband's curatory differs in this respect from the curatory of minors, for it is not merely intended for the wife's advantage, but is considered as a mutual benefit to both.

18. All donations, whether by the wife to the husband, or by the husband to the wife, are revocable by the donor; but if the donor dies without revocation, the right becomes absolute. Where the donation is not pure, it is not subject to revocation: thus, a grant made by the husband, in consequence of the natural obligation that lies upon him to provide for his wife, is not revocable, unless in so far as it exceeds the measure of a rational settlement; neither are remuneratory grants revocable, where mutual grants are made in consideration of each other, except where an onerous cause is simulated, or where what is given *hinc inde* bears no proportion to each other. All voluntary contracts of separation, by which the wife is provided in an yearly alimony, are effectual as to the time past, but revocable either by the husband or wife.

19. As wives are in the strongest degree subject to the influence of their husbands, third parties, in whose favours they had made grants, were frequently vexed with actions of reduction, as if the grant had been extorted from the wife through the force or fear of the husband. To secure the grantees against this danger, ratifications were introduced, whereby the wife, appearing before a judge, declares upon oath, her husband not present, that she was not induced to grant the deed *ex vi aut metu*. A wife's ratification is not absolutely necessary for securing the grantee: law indeed allows the wife to bring reduction of any deed she has not ratified, upon the head of force or fear; of which, if she bring sufficient evidence, the deed will be set aside; but if she fails in the proof, it will remain effectual to the receiver.

20. Marriage, like other contracts, might, by the Roman law, be dissolved by the contrary consent of parties; but, by the law of Scotland, it cannot be dissolved till death, except by divorce, proceeding either upon the head of adultery or of wilful desertion.

21. Marriage is dissolved by death, either *within* year and day from its being contracted, or *after* year and

Donations revocable and irrevocable.

Ratification by wives.

Dissolution of marriage.

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and day. If it is dissolved within year and day, all rights granted in consideration of the marriage (unless guarded against in the contract) become void, and things return to the same condition in which they stood before the marriage; with this restriction, that the husband is considered as a *bona fide* possessor, in relation to what he has consumed upon the faith of his right; but he is liable to repay the tocher, without any deduction, in consideration of his family-expence during the marriage. If things cannot be restored on both sides, equity hinders the restoring of one party and not the other. In a case which was lately before the court of session, it was determined, after a long hearing in presence, that where a marriage had been dissolved within the year without a living child, by the death of the husband, the widow was intitled to be alimented out of an estate of which he died possessed, though there were no conventional provisions stipulated in favour of the wife.

22. Upon the dissolution of a marriage, after year and day, the surviving husband becomes the irrevocable proprietor of the tocher; and the wife, where she survives, is intitled to her jointure, or to her legal provisions. She has also right to mournings, suitable to the husband's quality; and to alimony from the day of his death till the term at which her liferent provision, either legal or conventional, commences. If a living child be procreated of the marriage, the marriage has the same effect as if it had subsisted beyond the year. A day is adjoined to the year, *in majorem evidentiam*, that it may clearly appear that the year itself is elapsed; and therefore, the running of any part of the day, after the year, has the same effect as if the whole were elapsed. The legal right of courtesy competent to the surviving husband is explained below, N^o clxx. 28.

Divorce.

23. Divorce is such a separation of married persons, during their lives, as looses them from the nuptial tie, and leaves them at freedom to intermarry with others. But neither adultery, nor wilful desertion, are grounds which must necessarily dissolve marriage; they are only handles, which the injured party may take hold of to be free. Cohabitation, therefore, by the injured party, after being in the knowledge of the acts of adultery, implies a passing from the injury; and no divorce can proceed, which is carried on by collusion betwixt the parties, lest, contrary to the first institution of marriage, they might disengage themselves by their own consent: and though, after divorce, the guilty person, as well as the innocent, may contract second marriages; yet, in the case of divorce upon adultery, marriage is by special statute (1600. c. 20.) prohibited betwixt the two adulterers.

24. Where either party has deserted from the other for four years together, that other may sue for adherence. If this has no effect, the church is to proceed, first by admonition, then by excommunication; all which previous steps are declared to be a sufficient ground for pursuing a divorce. *De praxi*, the commissaries pronounce sentence in the adherence, after one year's desertion; but four years must intervene between the first desertion and the decree of divorce.

25. The legal effects of divorce on the head of desertion are, that the offending husband shall restore the tocher, and forfeit to the wife all her provisions, legal

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and conventional; and, on the other hand, the offending wife shall forfeit to the husband her tocher, and all the rights that would have belonged to her in the case of her survivance. This was also esteemed the rule in divorces upon adultery. But by a decision of the court of session 1662, founded on a tract of ancient decisions recovered from the records, the offending husband was allowed to retain the tocher.

SECT. VII. Of Minors, and their tutors and curators.

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1. THE stages of life principally distinguished in law are, *pupillarity*, *puberty* or *minority*, and *majority*. *Pupillarity, &c.*

A child is under pupillarity, from the birth to 14 years of age if a male, and till 12 if a female. Minority begins where pupillarity ends, and continues till majority; which, by the law of Scotland, is the age of 21 years complete, both in males and females: but minority, in a large sense, includes all under age, whether pupils or *puberes*. Because pupils cannot in any degree act for themselves, and minors seldom with discretion, pupils are put by law under the power of tutors, and minors may put themselves under the direction of curators. Tutorship is a power and faculty to govern the person, and administer the estate, of a pupil. Tutors are either *nominate*, of law, or *dativæ*. *Tutoria*

2. A tutor nominate is he who is named by a father, in his testament or other writing, to a lawful child. Such tutor is not obliged to give caution for the faithful discharge of his office; because his fidelity is presumed to have been sufficiently known to the father.

3. If there be no nomination by the father, or if the tutors nominate do not accept, or if the nomination falls by death or otherwise, there is place for a *tutor of law*. This sort of tutorship devolves upon the next agnate; by which we understand he who is nearest related by the father, though females intervene. *Agnate*

4. Where there are two or more agnates equally near to the pupil, he who is intitled to the pupil's legal succession falls to be preferred to the others. But as the law suspects that he may not be over careful to preserve a life which stands in the way of his own interest, this sort of tutor is excluded from the custody of the pupil's person; which is commonly committed to the mother, while a widow, until the pupil be seven years old; and, in default of the mother, to the next cognate, i. e. the nearest relation by the mother. The tutor of law must (by act 1474) be at least 25 years of age. He is served or declared by a jury of sworn men, who are called upon a brief issuing from the chancery, which is directed to any judge having jurisdiction. He must give security before he enters upon the management.

5. If no tutor of law demands the office, any person, even a stranger, may apply for a *tutorship-dative*. But because a tutor in law ought to be allowed a competent time to deliberate whether he will serve or not, no *tutorship-dative* can be given till the elapsing of a year from the time at which the tutor of law had first a right to serve. It is the king alone, as the father of his country, who gives *tutorship-dative*, by his court of exchequer; and by act 1672, no gift of tutorship can pass in exchequer, without the citation or consent of

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the next of kin to the pupil, both by the father and mother, nor till the tutor give security, recorded in the books of exchequer. There is no room for a tutor of law, or tutor-dative, while a tutor-nominate can be hoped for: and tutors of law, or dative, even after they have begun to act, may be excluded by the tutor-nominate, as soon as he offers to accept, unless he has expressly renounced the office. If a pupil be without tutors of any kind, the court of session will, at the suit of any kinsman, name a factor (steward) for the management of the pupil's estate.

6. After the years of pupillarity are over, the minor is considered as capable of acting by himself, if he has confidence enough of his own capacity and prudence. The only two cases in which curators are imposed upon minors are, (1.) Where they are named by the father, in a state of health. (2.) Where the father is himself alive; for a father is *ipso jure*, without any service, administrator, that is, both tutor and curator of law, to his children, in relation to whatever estate may fall to them during their minority. This right in the father does not extend to grandchildren, nor to such even of his immediate children as are forisfamiliarized. Neither has it place in subjects which are left by a stranger to the minor, exclusive of the father's administration. If the minor chooses to be under the direction of curators, he must raise and execute a summons, citing at least two of his next of kin to appear before his own judge-ordinary, upon nine days warning (by act 1555.) At the day and place of appearance, he offers to the judge a list of those whom he intends for his curators: such of them as resolve to undertake the office must sign their acceptance, and give caution; upon which an act of curatory is extracted.

7. These curators are styled *ad negotia*; to distinguish them from another sort called curators *ad lites*, who are authorized by the judge to concur with a pupil or minor in actions of law, either where he is without tutors and curators, or where his tutors and curators are parties to the suit. This sort is not obliged to give caution, because they have no intermeddling with the minor's estate: they are appointed for a special purpose; and when that is over, their office is at an end. Women are capable of being tutors and curators, under the following restrictions: (1.) The office of a female tutor or curator falls by her marriage, even though the nomination should provide otherwise; for she is no longer *sui juris*, and incapable of course of having another under her power. (2.) No woman can be tutor of law. Papists are (by act 1700) declared incapable of tutory or curatory. Where the minor has more tutors and curators than one, who are called in the nomination to the joint management, they must all concur in every act of administration; where a certain number is named for a quorum, that number must concur: where any one is named *sine quo non*, no act is valid without that one's special concurrence. But if they are named without any of these limitations, the concurrence of the majority of the nominees then alive is sufficient.

8. In this, tutory differs from curatory, that as pupils are incapable of consent, they have no person capable of acting; which defect the tutor supplies: but a minor *pubes* can act for himself. Hence, the tutor

subscribes alone all deeds of administration: but in curatory, it is the minor who subscribes as the proper party; the curator does no more than consent. Hence also, the persons of pupils are under the power either of their tutors or of their nearest cognates; but the minor, after pupillarity, has the disposal of his own person, and may reside where he pleases. In most other particulars, the nature, the powers, and the duties of the two offices coincide. Both tutors and curators must, previous to their administration, make a judicial inventory, subscribed by them and the next of kin, before the minor's judge-ordinary, of his whole estate personal and real; of which, one subscribed duplicate is to be kept by the tutors or curators themselves; another, by the next of kin on the father's side; and a third, by the next of kin on the mother's. If any estate belonging to the minor shall afterwards come to their knowledge, they must add it to the inventory within two months after their attaining possession thereof. Should they neglect this, the minor's debtors are not obliged to make payment to them: they may be removed from their offices as suspected; and they are intitled to no allowance for the sums disbursed by them in the minor's affairs (act 1672), except the expence laid out upon the minor's entertainment, upon his lands and houses, and upon completing his titles.

9. Tutors and curators cannot grant leases of the minor's lands, to endure longer than their own office; nor under the former rental, without either a warrant from the court of session, or some apparent necessity.

10. They have power to sell the minor's moveables; but cannot sell their pupil's land-estate, without the authority of a judge, yet this restraint reaches not to such alienations as the pupil could by law be compelled to grant, e.g. to renunciations of wadsets upon redemption by the reverser; for in such case, the very tenor of his own right lays him under the obligation; nor to the renewal of charters to heirs; but the charter must contain no new right in favour of the heir. The alienation, however, of heritage by a minor, with consent of his curators, is valid.

11. Tutors and curators cannot, contrary to the nature of their trust, authorize the minor to do any deed for their own benefit; nor can they acquire any debt affecting the minor's estate: and, where a tutor or curator makes such acquisition, in his own name, for a less sum than the right is intitled to draw, the benefit thereof accrues to the minor. It seems, however, that such purchase would be considered as valid, provided it were *bona fide* acquired at a public sale; for in such case it occurs that the tutor or curator is in fact meliorating the situation of his ward by enhancing the value of his property by a fair competition. In general, it seems to be the genius and spirit of our law, that tutors and curators shall do every thing in their power towards the faithful and proper discharge of their respective offices.

12. By the Roman law, tutory and curatory, being *munera publica*, might be forced upon every one who had not a relevant ground of excuse: but, with us, the persons named to these offices may either accept or decline: and where a father, in *liege poustie* (when in a state of health), names certain persons both as tutors and curators to his children, though they have acted

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as tutors, they may decline the office of curatory. Tutors and curators having once accepted, are liable *in diligence*, that is, are accountable for the consequences of their neglect in any part of their duty from the time of their acceptance. They are accountable *singuli in solidum*, i. e. every one of them is answerable, not only for his own diligence, but for that of his co-tutors; and any one may be sued without citing the rest: but he who is condemned in the whole, has action of relief against his co-tutors.

13. From this obligation to diligence, we may except, (1.) Fathers or administrators in law, who, from the presumption that they act to the best of their power for their children, are liable only for actual intromissions. (2.) Tutors and curators named by the father in consequence of the act 1696, with the special provisos, that they shall be liable barely for intromissions, not for omissions; and that each of them shall be liable only for himself, and not *in solidum* for the co-tutors: but this power of exemption from diligence is limited to the estate descending from the father himself. Tutors or curators are not intitled to any salary or allowance for pains, unless a salary has been expressly contained in the testator's nomination; for their office is presumed gratuitous.

14. Though no person is obliged to accept the office of tutor or curator; yet having once accepted, he cannot throw it up or renounce it without sufficient cause; but, if he should be guilty of misapplying the minor's money, or fail in any other part of his duty, he may be removed at the suit of the minor's next in kin, or by a co-tutor or co-curator. Where the misconduct proceeds merely from indolence or inattention, the court, in place of removing the tutor, either join a curator with him, or, if he be a tutor-nominate, they oblige him to give caution for his past and future management.

15. The offices of tutory and curatory expire also by the pupil's attaining the age of puberty, or the minor's attaining the age of 21 years complete; and by the death either of the minor, or of his tutor and curator. Curatory also expires by the marriage of a female minor, who becomes thereby under the coverture of her own husband. After expiry of the office, reciprocal actions lie at the instance both of the tutors and curators, and of the minor. That at the instance of the minor is called *actio tutelæ directæ*, by which he can compel the tutors to account; that at the instance of the tutors, *actio tutelæ contrariæ*, by which the minor can be compelled to repeat what has been profitably expended during the administration: but this last does not lie till after accounting to the minor; for till then the tutors are presumed *intus habere* to have effects in their own hands for answering their disbursements.

16. Deeds either by pupils, or by minors having curators without their consent, are null; but they oblige the granters, in as far as relates to sums profitably applied to their use. A minor under curators can indeed make a testament by himself; but whatever is executed in the form of a deed *inter vivos*, requires the curator's consent. Deeds by a minor who has no curators, are as effectual as if he had had curators, and signed them with their consent; he may even alien his heritage, without the interposition of a judge.

17. Minors may be restored against all deeds grant-

ed in their minority, that are hurtful to them. Deeds, in themselves void, need not the remedy of restitution; but where hurtful deeds are granted by a tutor in his pupil's affairs, or by a minor who has no curators, as these deeds subsist in law, restitution is necessary: and even where a minor, having curators, executes a deed hurtful to himself with their consent, he has not only action against the curators, but he has the benefit of restitution against the deed itself. The minor cannot be restored, if he does not raise and execute a summons for reducing the deed, *ex capite minorennitatis et lésionis*, before he be 25 years old. These four years, between the age of 21 and 25, called *quadriennium utile*, are indulged to the minor, that he may have a reasonable time, from that period, when he is first presumed to have the perfect use of his reason, to consider with himself what deeds done in his minority have been truly prejudicial to him.

18. Questions of restitution are proper to the court of session. Two things must be proved by the minor, in order to the reduction of the deed: (1.) That he was minor when it was signed; (2.) That he is hurt or lesed by the deed. This lesion must not proceed merely from accident; for the privilege of restitution was not intended to exempt minors from the common misfortunes of life; it must be owing to the imprudence or negligence of the minor, or his curator.

19. A minor cannot be restored against his own delict or fraud; e. g. if he should induce one to bargain with him by saying he was major. (1.) Restitution is excluded, if the minor, at any time after majority, has approved of the deed, either by a formal ratification, or tacitly by payment of interest, or by other acts inferring approbation. (3.) A minor, who has taken himself to business, as a merchant-shopkeeper, &c. cannot be restored against any deed granted by him in the course of that business, especially if he was *proximus majorennitatis* at signing the deed. (4.) According to the more common opinion, a minor cannot be restored in a question against a minor, unless some gross unfairness shall be qualified in the bargain.

20. The privilege of restitution does not always die with the minor himself. (1.) If a minor succeeds to a minor, the time allowed for restitution is governed by the minority of the heir, not of the ancestor. (2.) If a minor succeeds to a major, who was not full 25, the privilege continues with the heir during his minority; but he cannot avail himself of the *anni utiles*, except in so far as they were unexpired at the ancestor's death. (3.) If a major succeeds to a minor, he has only the *quadriennium utile* after the minor's death; and if he succeeds to a major dying within the *quadriennium*, no more of it can be profitable to him than what remained when the ancestor died.

21. No minor can be compelled to state himself as a defender, in any action, whereby his heritable estate flowing from ascendants may be evicted from him, by one pretending a preferable right.

22. This privilege is intended merely to save minors from the necessity of disputing upon questions of preference. It does not therefore take place, (1.) Where the action is pursued on the father's falsehood or delict. (2.) Upon his obligation to convey heritage. (3.) On his liquid bond for a sum of money, though such action should have the effect to carry off the minor's

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Scotland.Its requi-
sites.How ex-
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the heir.Minor non
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deeds by
minors.

Restitution.

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estate by adjudication. (4.) Nor in actions pursued by the minor's superior, upon feudal casualties. (5.) This privilege cannot be pleaded in bar of an action which had been first brought against the father, and is only continued against the minor; nor where the father was not in the peaceable possession of the heritable subject at his death. Before the minor can plead it, he must be served heir to his father. The persons of pupils are by said act 1696 protected from imprisonment on civil debts.

Curators of
idiots and
furious per-
sons.

23. Curators are given, not only to minors, but in general to every one who, either through defect of judgment, or unfitness of disposition, is incapable of rightly managing his own affairs. Of the first sort, are idiots and furious persons. Idiots, or *fatui*, are entirely deprived of the faculty of reason. The distemper of the furious person does not consist in the defect of reason; but in an overheated imagination, which obstructs the application of reason to the purposes of life. Curators may be also granted to lunatics; and even to persons dumb and deaf, though they are of sound judgment, where it appears that they cannot exert it in the management of business. Every person, who is come of age, and is capable of acting rationally, has a natural right to conduct his own affairs. The only regular way, therefore, of appointing this sort of curators, is by a jury summoned upon a brief from the chancery; which is not, like the brief of common tutory, directed to any judge-ordinary, but to the judge of the special territory where the person alleged to be fatuous or furious resides; that, if he is truly of sound judgment, he may have an opportunity to oppose it: and for this reason, he ought to be made a party to the brief. The curatory of idiots and furious persons belongs to the nearest agnate; but a father is preferred to the curatory of his fatuous son, and the husband to that of his fatuous wife, before the agnate.

24. A clause is inserted in the brief, for inquiring how long the fatuous or furious person has been in that condition; and the verdict to be pronounced by the inquest has a retrospective effect; for it is declared a sufficient ground, without further evidence, for reducing all deeds granted after the period at which it appeared by the proof that the fatuity or furiosity began. But, as fatuous and furious persons are, by their very state, incapable of being obliged, all deeds done by them may be declared void, upon proper evidence of their fatuity at the time of signing, though they should never have been cognosed idiots by an inquest.

25. We have some few instances of the sovereign's giving curators to idiots, where the next agnate did not claim; but such gifts are truly deviations from our law, since they pass without any inquiry into the state of the person upon whom the curatory is imposed. Hence the curator of law to an idiot, serving *quandocunque*, is preferred, as soon as he offers himself, before the curator-dative. This sort of curatory does not determine by the lucid intervals of the person *sub cura*; but it expires by his death, or perfect return to a sound judgment; which last ought regularly to be declared by the sentence of a judge.

Interdic-
tion.

26. Persons, let them be ever so profuse, or liable to be imposed upon, if they have the exercise of reason, can effectually oblige themselves, till they are fettered by law. This may be done by *Interdiction*, which is

a legal restraint laid upon such persons from signing any deed to their own prejudice, without the consent of their curators or interdictors.

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27. There could be no interdiction, by our ancient practice, without a previous inquiry into the person's condition. But as there were few who could bear the shame that attends judicial interdiction, however necessary the restraint might have been, voluntary interdiction has received the countenance of law; which is generally executed in the form of a bond, whereby the granter obliges himself to do no deed that may affect his estate, without the consent of certain friends therein mentioned. Though the reasons inductive of the bond should be but gently touched in the recital, the interdiction stands good. Voluntary interdiction, tho' it be imposed by the sole act of the person interdicted, cannot be recalled at his pleasure: but it may be taken off, (1.) By a sentence of the court of session, declaring, either that there was, from the beginning, no sufficient ground for the restraint; or that the party is, since the date of the bond, become *rei sui providus*. (2.) It falls, even without the authority of the lords, by the joint act of the person interdicted, and his interdictors, concurring to take it off. (3.) Where the bond of interdiction requires a certain number as a quorum, the restraint ceases, if the interdictors shall by death be reduced to a lesser number.

28. Judicial interdiction is imposed by a sentence of the court of session. It commonly proceeds on an action brought by a near kinsman to the party; and sometimes from the *nobile officium* of the court, when they perceive, during the pendency of a suit, that any of the litigants is, from the facility of his temper, subject to imposition. This sort must be taken off by the authority of the same court that imposed it.

29. An interdiction need not be served against the person interdicted; but it must be executed, or published by a messenger, at the market cross of the jurisdiction where he resides, by publicly reading the interdiction there, after three eyesles made for convoking the lieges. A copy of this execution must be affixed to the cross; and thereafter, the interdiction, with its execution, must (by the act 1581) be registered in the books both of the jurisdiction where the person interdicted resides and where his lands lie, or (by the act 1600) in the general register of the session, within 40 days from the publication. An interdiction, before it is registered, has no effect against third parties, tho' they should be in the private knowledge of it; but it operates against the interdictors themselves, as soon as it is delivered to them.

30. An interdiction, duly registered, has this effect, that all deeds done thereafter, by the person interdicted, without the consent of his interdictors, affecting his heritable estate, are subject to reduction. Registration in the general register secures all his lands from alienation, wherever they lie; but where the interdiction is recorded in the register of a particular shire, it covers no lands except those situated in that shire. But persons interdicted have full power to dispose of their moveables, not only by testament, but by present deeds of alienation: And creditors, in personal bonds granted after interdiction, may use all execution against their debtor's person and moveable estate: such bonds being only subject to reduction in so far as diligence

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ligence against the heritable estate may proceed upon them.

31. All onerous or rational deeds granted by the person interdicted, are as effectual, even without the consent of the interdictors, as if the granter had been laid under no restraint; but he cannot alter the succession of his heritable estate, by any settlement, let it be ever so rational. No deed, granted with consent of the interdictors, is reducible, though the strongest lesion or prejudice to the granter should appear: the only remedy competent, in such case, is an action by the granter against his interdictors, for making up to him what he has lost through their undue consent. It is no part of the duty of interdictors, to receive sums or manage any estate; they are given merely *ad auctoritatem præstandam*, to interpose their authority to reasonable deeds: and so are accountable for nothing but their fraud or fault, in consenting to deeds hurtful to the person under their care.

Office of in-
terdictors.Lawful
children.

32. The law concerning the state of children falls next to be explained. Children are either born in wedlock, or out of it. All children, born in lawful marriage or wedlock, are presumed to be begotten by the person to whom the mother is married; and consequently to be lawful children. This presumption is so strongly founded, that it cannot be defeated but by direct evidence that the mother's husband could not be the father of the child, *e. g.* where he is impotent, or was absent from the wife till within six lunar months of the birth. The canonists indeed maintain, that the concurring testimony of the husband and wife, that the child was not procreated by the husband, is sufficient to elide this legal presumption for legitimacy: but it is an agreed point, that no regard is to be paid to such testimony, if it be made after they have owned the child to be theirs. A father has the absolute right of disposing of his children's person, of directing their education, and of moderate chastisement; and even after they become *puberes*, he may compel them to live in family with him, and to contribute their labour and industry, while they continue there, towards his service. A child who gets a separate stock from the father for carrying on any trade or employment, even though he should continue in the father's house, may be said to be emancipated or forisfamiated, in so far as concerns that stock; for the profits arising from it are his own. Forisfamiation, when taken in this sense, is also inferred by the child's marriage, or by his living in a separate house, with his father's permission or good-will. Children, after their full age of twenty-one years, become, according to the general opinion, their own masters: and from that period are bound to the father only by the natural ties of duty, affection, and gratitude. The mutual obligations between parents and children to maintain each other, are explained afterwards, N^o clxxiii. 4.

Bastards.

33. Children born out of wedlock, are styled natural children, or bastards. Bastards may be legitimated or made lawful, (1.) By the subsequent intermarriage of the mother of the child with the father. And this sort of legitimation intitles the child to all the rights of lawful children. The subsequent marriage, which produces legitimation, is considered by the law to have been entered into when the child legi-

timated was begotten; and hence, if he be a male, he excludes, by his right of primogeniture, the sons procreated after the marriage, from the succession of the father's heritage, though these sons were lawful children from the birth. Hence, also, those children only can be thus legitimated, who are begotten of a woman whom the father might at that period have lawfully married. (2.) Bastards are legitimated by letters of legitimation from the sovereign. N^o clxxxii. 3.

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34. As to the power of masters over their servants: *Servants.* All servants now enjoy the same rights and privileges with other subjects, unless in so far as they are tied down by their engagements of service. Servants are either necessary or voluntary. Necessary are those whom law obliges to work without wages, of whom immediately. Voluntary servants engage without compulsion, either for mere subsistence, or also for wages. Those who earn their bread in this way, if they should stand off from engaging, may be compelled to it by the justices of the peace, who have power to fix the rate of their wages.

35. Colliers, coal-bearers, salters, and other persons necessary to collieries and salt-works, as they are particularly described by act 1661, were formerly tied down to perpetual service at the works to which they had once entered. Upon a sale of the works, the right of their service was transferred to the new proprietor. All persons were prohibited to receive them into their service, without a testimonial from their last master; and if they deserted to another work, and were redemanded within a year thereafter, he who had received them was obliged to return them within twenty-four hours, under a penalty. But though the proprietor should neglect to require the deserter within the year, he did not, by that short prescription, lose his property in him. Colliers, &c. where the colliery to which they were restricted was either given up, or not sufficient for their maintenance, might lawfully engage with others; but if that work should be again set a-going, the proprietor might reclaim them back to it.

Colliers and
salters.

36. But by 15 Geo. III. c. 28. these restraints, the only remaining vestiges of slavery in the law of Scotland, are abrogated; and, after the 1st July 1775, all colliers, coal-bearers, and salters, are declared to be upon the same footing with other servants or labourers. The act subjects those who were bound prior to the 1st July 1775, to a certain number of years service for their freedom, according to the age of the person.

Restrains
lately ta-
ken off.

37. The poor make the lowest class or order of persons. Indigent children may be compelled to serve any of the king's subjects without wages, till their age of thirty years. Vagrants and sturdy beggars may be also compelled to serve any manufacturer. And because few persons were willing to receive them into their service, public work-houses are ordained to be built for setting them to work. The poor who cannot work, must be maintained by the parishes in which they were born; and where the place of their nativity is not known, that burden falls upon the parishes where they have had their most common resort, for the three years immediately preceding their being apprehended or their applying for the public charity. Where the contributions collected at the churches to which they belong are not sufficient for their maintenance, they are

The poor.

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to receive badges from the minister and kirk-session, in virtue of which they may ask alms at the dwelling-houses of the inhabitants of the parish.

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C H A P. II.

Of THINGS.

THE things, or subjects, to which persons have right, are the second object of law.

clxii. SECT. I. *Of the division of rights, and the several ways by which a right may be acquired.*

Property.

THE right of enjoying and disposing of a subject at one's pleasure, is called property. Proprietors are restrained by law from using their property emulously to their neighbour's prejudice. Every state or sovereign has a power over private property, called, by some lawyers, *dominium eminens*, in virtue of which, the proprietor may be compelled to sell his property for an adequate price, where an evident utility on the part of the public demands it.

Things incapable of appropriation.

2. Certain things are by nature itself incapable of appropriation; as the air, the light, the ocean, &c.: none of which can be brought under the power of any one person, though their use be common to all. Others are by law exempted from private commerce, in respect of the uses to which they are destined. Of this last kind are, (1.) *Res publicæ*, as navigable rivers, highways, bridges, &c.: the right of which is vested in the king, chiefly for the benefit of his people, and they are called *regalia*. (2.) *Res universitatis*, things which belong in property to a particular corporation or society, and whose use is common to every individual in it, but both property and use are subject to the regulations of the society; as town-houses, corporation-halls, market-places, church-yards, &c. The lands or other revenue belonging to a corporation do not fall under this class, but are *juris privati*, *quoad* the corporation.

Ways of acquiring property.

3. Property may be acquired, either by *occupation* or *accession*; and transferred by *tradition* or *prescription*: but prescription being also a way of losing property, falls to be explained under a separate title. *OCCUPATION*, or occupancy, is the appropriating of things which have no owner, by apprehending them, or seizing their possession. This was the original method of acquiring property: and continued, under certain restrictions, the doctrine of the Roman law, *Quod nullius est, fit occupantis*: but it can have no room in the feudal plan, by which the king is looked on as the original proprietor of all the lands within his dominions.

4. Even in that sort of moveable goods which are presumed to have once had an owner, this rule obtains by the law of Scotland, *Quod nullius est, fit domini regis*. Thus, the right of treasure hid under ground is not acquired by occupation, but accrues to the king. Thus also, where one finds strayed cattle or other moveables, which have been lost by the former owner, the finder acquires no right in them, but must give public notice thereof; and if, within year and day after such notice, the proprietor does not claim his goods, they fall to the king, sheriff, or other person to whom the king has made a grant of such escheats.

5. In that sort of moveables which never had an owner, as wild-beasts, fowls, fishes, or pearls found on the shore, the original law takes place, that he who first apprehends, becomes proprietor; in so much, that though the right of hunting, fowling, and fishing, be restrained by statute, under certain penalties, yet all game, even what is caught in contravention of the law, becomes the property of the catcher (unless where the confiscation thereof is made part of the penalty), the contravener being obnoxious, however, to the penal enactment of the statutes in consequence of his transgression. It was not for a long time a fixed point whether a person, though possessed of the valued rent by law intitling him to kill game, could hunt upon another person's grounds without consent: but it was lately found by the court of session, and affirmed upon appeal, that he could not; it being repugnant to the idea of property, that any person, however qualified, should have it in his power to traverse and hunt upon another's grounds without consent of the proprietor. Although certain things become the property of the first occupant, yet there are others which fall not under this rule. Thus, whales thrown in or killed on our coasts, belong neither to those who kill them, nor to the proprietor of the grounds on which they are cast; but to the king, providing they are so large as that they cannot be drawn by a wane with six oxen.

6. *ACCESSION* is that way of acquiring property, by which, in two things which have a connection with or dependence on one another, the property of the principal thing draws after it the property of its accessory. Thus the owner of a cow becomes the owner of the calf; a house belongs to the owner of the ground on which it stands, though built with materials belonging to and at the charge of another; trees taking root in our ground, though planted by another, become ours. Thus also, the insensible addition made to one's ground by what a river washes from other grounds (which is called *alluvio*), accrues to the master of the ground which receives the addition: but where it happened that a large piece of ground was disjoined and annexed to another person's by the force of a river or any other accident and which was by the Romans called *avulsio*, they considered the owner's right of property still to subsist, § 21. *Inst. de rer. divis*; and it is probable that, in a similar case, our courts would countenance the distinction. The Romans excepted from this rule the case of paintings drawn on another man's board or canvas, in consideration of the excellency of the art; which exception our practice has for a like reason extended to similar cases.

7. Under accession is comprehended *SPECIFICATION*; Specification, by which is meant, a person's making a new species or thing, subject, from materials belonging to another. Where the new species can be again reduced to the matter of which it was made, law considers the former mass as still existing; and therefore, the new species, as an accessory to the former subject, belongs to the proprietor of that subject: but where the thing made cannot be so reduced, as in the case of wine, which cannot be again turned into grapes, there is no place for the *fidia juris*; and therefore the workmanship draws after it the property of the materials. But the person who thus carries the property from the other is bound to indemnify

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tion.

indemnify him according to the true value; and in case it was done *mala fide*, he may be made liable in the *pretium affectionis* or utmost value.

8. Though the new species should be produced from the COMMIXTION or confusion of different substances belonging to different proprietors, the same rule holds; but where the mixture is made by the common consent of the owner, such consent makes the whole a common property, according to the shares that each proprietor had formerly in the several subjects. Where things of the same sort are mixed without the consent of the proprietors, which cannot again be separated, *e. g.* two hogheads of wine, the whole likewise becomes a common property; but, in the after-division, regard ought to be had to the different quality of the wines: if the things so mixed admit of a separation, *e. g.* two flocks of sheep, the property continues distinct.

Tradition.

9. Property is carried from one to another by TRADITION; which is the delivery of possession by the proprietor, with an intention to transfer the property to the receiver. Two things are therefore requisite, in order to the transmitting of property in this way: 1. The intention or consent of the former owner to transfer it on some proper title of alienation, as sale, exchange, gift, &c. (2.) The actual delivery in pursuance of that intention. The first is called the *causa*, the other the *modus transferendi domini*: which last is so necessary to the acquiring of property, that he who gets the last right, with the first tradition, is preferred, according to the rule, *Traditionibus, non nudis pactis, transferuntur rerum dominia*.

10. Tradition is either real, where the *ipsa corpora* of moveables are put into the hands of the receiver; or symbolical, which is used where the thing is incapable of real delivery, or even when actual delivery is only inconvenient. Where the possession or custody of the subject has been before with him to whom the property is to be transferred, there is no room for tradition.

Possession;

11. Possession, which is essential both to the acquisition and enjoyment of property, is defined, the detention of a thing, with a design or *animus* in the detainer of holding it as his own. It cannot be acquired by the sole act of the mind, without real detention; but, being once acquired, it may be continued *solo animo*. Possession is either natural, or civil. Natural possession is, when one possesses by himself: thus, we possess lands by cultivating them and reaping their fruits, houses by inhabiting them, moveables by detaining them in our hands. Civil possession is our holding the thing, either by the sole act of the mind, or by the hands of another who holds it in our name: thus, the owner of a thing lent possesses it by the borrower; the proprietor of lands, by his tacksmen, trustee, or steward, &c. The same subject cannot be possessed entirely, or *in solidum*, by two different persons at one and the same time: and therefore possession by an act of the mind ceases, as soon as the natural possession is so taken up by another, that the former possessor is not suffered to re-enter. Yet two persons may, in the judgment of law, possess the same subject, at the same time, on different rights: thus, in the case of a pledge, the creditor possesses it in his own name, in virtue of the right of impignoration; while the proprietor is considered as possessing, in and

through the creditor, in so far as is necessary for supporting his right of property. The same doctrine holds in liferenters, tacksmen, and, generally, in every case where there are rights affecting a subject distinct from the property.

12. A *bona fide* possessor is he who, though he is not really proprietor of the subject, yet believes himself proprietor on probable grounds. A *mala fide* possessor is he who knows, or is presumed to know, that what he possesses is the property of another. A possessor *bona fide* acquired right, by the Roman law, to the fruits of the subject possessed, that had been reaped and consumed by himself, while he believed the subjects his own. By our customs, perception alone, without consumption, secures the possessor: nay, if he has sown the ground, while his *bona fides* continued, he is intitled to reap the crop, *propter curam et culturam*. But this doctrine does not reach to civil fruits, *e. g.* the interest of money, which the *bona fide* receiver must restore, together with the principal, to the owner.

13. *Bona fides* necessarily ceaseth by the *conscientia rei alienae* in the possessor, whether such consciousness should proceed from legal interpellation, or private knowledge. *Mala fides* is sometimes induced by the true owner's bringing his action against the possessor, sometimes not till litiscontestation, and, in cases uncommonly favourable, not till sentence be pronounced against the possessor.

14. The property of moveable subjects is presumed by the bare act of possession, until the contrary be proved; but possession of an immoveable subject, tho' for a century of years together, if there is no seisin, does not create even a presumptive right to it: *Nulla fides, nulla terra*. Such subject is considered as caducuary, and so accrues to the sovereign. Where the property of a subject is contested, the lawful possessor is intitled to continue his possession, till the point of right be discussed; and, if he has lost it by force or stealth, the judge will, upon summary application, immediately restore it to him.

15. Where a possessor has several rights in his person, affecting the subject possessed, the general rule is, that he may ascribe his possession to which of them he pleases; but one cannot ascribe his possession to a title other than that on which it commenced, in prejudice of him from whom his title flowed.

SECT. II. Of heritable and moveable rights.

FOR the better understanding the doctrine of this title, it must be known, that by the law of Scotland, and indeed of most nations of Europe since the introduction of feus, wherever there are two or more in the same degree of consanguinity to one who dies intestate, and who are not all females, such rights belonging to the deceased as are either properly feudal, or have any resemblance to feudal rights, descend wholly to one of them, who is considered as his proper heir; the others, who have the name of next of kin or executors, must be contented with that portion of the estate which is of a more perishable nature. Hence has arisen the division of rights to be explained under this title: the subjects descending to the heir, are styled *heritable*; and those that fall to the next of kin *moveable*.

2. All rights of, or affecting lands, under which are

com-

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Division of
rights into
heritable
and move-
able.

comprehended houses, mills, fishings, teinds; and all rights of subjects that are *fundo annexa*, whether completed by seisin or not, are heritable *ex sua natura*. On the other hand, every thing that moves itself or can be moved, and in general whatever is not united to land, is moveable: as household-furniture, corns, cattle, cash, arrears of rent and of interest, even though they should be due on a right of annualrent: for though the arrears last mentioned are secured on land, yet being presently payable, they are considered as cash.

3. Debts, (*nomina debitorum*), when due by bill, promissory note, or account, are moveable. When constituted by bond, they do not all fall under any one head; but are divided into heritable and moveable, by the following rules. All debts constituted by bond bearing an obligation to invest the creditor in any heritable subject in security of the principal sum and annualrent, or annualrent only, are heritable; for they not only carry a yearly profit, but are secured upon land.

4. Bonds merely personal, though bearing a clause of interest, are, by act 1661, declared to be moveable as to succession; *i. e.* they go, not to the heir, but to the next of kin or executors; but they are heritable with respect to the fisk, and to the rights of husband and wife; that is, though, by the general rule, moveable rights fall under the communion of goods consequent upon marriage, and the moveables of denounced persons fall to the crown or fisk by single escheat, yet such bonds do neither, but are heritable in both respects.

5. Bonds taken payable to heirs and assignees, secluding executors, are heritable in all respects, from the destination of the creditor. But a bond, which is made payable to heirs, without mention of executors, descends, not to the proper heir in heritage, though heirs are mentioned in the bond, but to the executor; for the word *heir*, which is a generic term, points out him who is to succeed by law in the right; and the executor, being the heir *in mobilibus*, is considered as the person to whom such bond is taken payable. But where a bond is taken to heirs-male, or to a series of heirs, one after another, such bond is heritable, because its destination necessarily excludes executors.

How move-
able rights
become he-
ritable.

6. Subjects originally moveable become heritable, (1.) By the proprietor's destination. Thus, a jewel, or any other moveable subject, may be provided to the heir, from the right competent to every proprietor to settle his property on whom he pleases. (2.) Moveable rights may become heritable, by the supervening of an heritable security: Thus, a sum due by a personal bond becomes heritable, by the creditor's accepting an heritable right for securing it, or by adjudging upon it.

7. Heritable rights do not become moveable by accessory moveable securities; the heritable right being in such case the *jus nobilius*, which draws the other after it.

Rights
partly heri-
table, part-
ly move-
able.

8. Certain subjects partake, in different respects, of the nature both of heritable and moveable. Personal bonds are, by the above cited act 1661, moveable in respect of succession; but heritable as to the fisk, and the rights of husband and wife. All bonds, whether merely personal, or even heritable, on which no seisin has

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followed, may be affected at the suit of creditors, either by adjudication, which is a diligence proper to heritage; or by arrestment, which is peculiar to moveables. Bonds secluding executors, though they descend to the creditor's heir, are payable by the debtor's executors, without relief against the heir; since the debtor's succession cannot be affected by the destination of the creditor.

9. All questions, whether a right be heritable or moveable, must be determined according to the condition of the subject at the time of the ancestor's death. If it was heritable at that period, it must belong to the heir; if moveable, it must fall to the executor, without regard to any alterations that may have affected the subject in the intermediate period between the ancestor's death and the competition.

Law of
Scotland.

What peri-
od makes a
subject he-
ritable or
moveable.

I. HERITABLE RIGHTS.

SECT. III. *Of the constitution of heritable rights by charter and seisin.* clxiv.

HERITABLE rights are governed by the feudal law, which owed its origin, or at least its first improvements, to the Longobards; whose kings, upon having penetrated into Italy, the better to preserve their conquests, made grants to their principal commanders of great part of the conquered provinces, to be again subdivided by them among the lower officers, under the conditions of fidelity and military service.

Origin of
the feudal
law.

2. The feudal constitutions and usages were first reduced into writing about the year 1150, by two lawyers of Milan, under the title of *Consuetudines Feudorum*. None of the German emperors appear to have expressly confirmed this collection by their authority; but it is generally agreed, that it had their tacit approbation, and was considered as the customary feudal law of all the countries subject to the empire. No other country has ever acknowledged these books for their law; but each state has formed to itself such a system of feudal rules, as best agreed with the genius of its own constitution. In feudal questions, therefore, we are governed, in the first place, by our own statutes and customs; where these fail us, we have regard to the practice of neighbouring countries, if the genius of their law appears to be the same with ours; and should the question still remain doubtful, we may have recourse to those written books of the feus, as to the original plan on which all feudal systems have proceeded.

3. This military grant got the name, first of *beneficium*, and afterwards of *feudum*; and was defined a gratuitous right to the property of lands, made under the conditions of fealty and military service, to be performed to the granter by the receiver; the radical right of the lands still remaining in the granter. Under lands, in this definition, are comprehended all rights or subjects so connected with land, that they are deemed a part thereof; as houses, mills, fishings, jurisdictions, patronages, &c. Though feus in their original nature were gratuitous, they soon became the subject of commerce; services of a civil or religious kind were frequently substituted in place of military; and now, of a long time, services of every kind have been entirely dispensed

Definition
of feus.

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Scotland.
Superior
and vassals.

pensed with in certain feudal tenures. He who makes the grant is called the *superior*, and he who receives it the *vassal*. The subject of the *grant* is commonly called the *feu*; though that word is at other times, in our law, used to signify one particular tenure. (See Sect. iv. 2.). The interest retained by the superior in the feu is styled *dominium directum*, or the superiority; and the interest acquired by the vassal, *dominium utile*, or the property. The word *fee* is promiscuously applied to both.

Allodial
goods.

4. Allodial goods are opposed to feus; by which are understood goods enjoyed by the owner, independent of a superior. All moveable goods are allodial; lands only are so when they are given without the condition of fealty or homage. By the feudal system, the sovereign, who is the fountain of feudal rights, reserves to himself the superiority of all the lands of which he makes the grant; so that, with us, no lands are allodial, except those of the king's own property, the superiorities which the king reserves in the property-lands of his subjects, and manes and glebes, the right of which is completed by the presbytery's designation, without any feudal grant.

Who can
grant feudal
rights.

5. Every person who is in the right of an immovable subject, provided he has the free administration of his estate, and is not debarred by statute, or by the nature of his right, may dispose of it to another. Nay, a vassal, though he has only the *dominium utile*, can subfeu his property to a subvassal by a subaltern right, and thereby raise a new *dominium directum* in himself, subordinate to that which is in his superior; and so *in infinitum*. The vassal who thus subfeus is called the subvassal's immediate superior, and the vassal's superior is the subvassal's mediate superior.

Who can
receive
them.

6. All persons who are not disabled by law, may acquire and enjoy feudal rights. Papists cannot purchase a land-estate by any voluntary deed. Aliens, who owe allegiance to a foreign prince, cannot hold a feudal right without naturalization: and therefore, where such privilege was intended to be given to favoured nations or persons, statutes of naturalization were necessary, either general or special; or at least, letters of naturalization by the sovereign.

What sub-
jects can
be granted
in feu.

7. Every heritable subject, capable of commerce, may be granted in feu. From this general rule are excepted, 1. The annexed property of the crown, which is not alienable without a previous dissolution in parliament. 2. Tailzied lands, which are devised under condition that they shall not be aliened. 3. An estate in *hereditate jacente* cannot be effectually aliened by the heir-apparent (*i. e.* not entered); but such alienation becomes effectual upon his entry, the supervening right accruing in that case to the purchaser; which is a rule applicable to the alienation of all subjects not belonging to the vender at the time of the sale.

Feudal
charter.

8. The feudal right, or, as it is called, *investiture*, is constituted by charter and seisin. By the charter, we understand that writing which contains the grant of the feudal subject to the vassal, whether it be executed in the proper form of a charter, or of a disposition. Charters by subject superiors are granted, either, 1. *A me de superiore meo*, when they are to be holden, not of the granter himself, but of his superior. This sort is called a *public holding*, because vassals were

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in ancient times publicly received in the superior's court before the *pares curie* or co-vassals. Or, 2. *De me*, where the lands are to be holden of the granter. These were called sometimes *base rights*, from *bas*, lower: and sometimes *private*, because, before the establishment of our records, they were easily concealed from third parties; the nature of all which will be more fully explained, Sect. vii. An original charter is that by which the fee is first granted: A charter by progress is a renewed disposition of that fee to the heir or assignee of the vassal. All doubtful clauses in charters by progress ought to be construed agreeably to the original grant; and all clauses in the original charter are understood to be implied in the charters by progress, if there be no express alteration.

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Scotland.

its consti-
tuent parts.

9. The first clause in an original charter, which follows immediately after the name and designation of the granter, is the narrative or recital, which expresses the causes inductive of the grant. If the grant be made for a valuable consideration, it is said to be *onerous*; if for love and favour, *gratuitous*. In the dispositive clause of a charter, the subjects made over are described either by special boundaries or march-stones, (which is called a *bounding charter*), or by such other characters as may sufficiently distinguish them. A charter regularly carries right to no subjects but what are contained in this clause, though they should be mentioned in some other clause of the charter. It has been however found, that a right to salmon-fishing was carried by a clause *cum piscariis* in the *tenendas* of a charter, the same having been followed with possession.

10. The clause of *tenendas* (from its first words *tenendas predictas terras*) expresses the particular tenure by which the lands are to be holden. The clause of *reddendo* (from the words *reddendo inde annuatim*) specifies the particular duty or service which the vassal is to pay or perform to the superior.

11. The clause of *warrantice* is that by which the granter obliges himself that the right conveyed shall be effectual to the receiver. Warrantice is either *personal* or *real*. *Personal* warrantice, where the granter is only bound personally, is either, 1. *Simple*, that he shall grant no deed in prejudice of the right; and this sort, which is confined to future deeds, is implied even in donations. 2. Warrantice *from fact and deed*, by which the granter warrants that the right neither has been, nor shall be, hurt by any fact of his. Or, 3. *Absolute* warrantice *contra omnes mortales*, whereby the right is warranted against all legal defects in it which may carry it off from the receiver either wholly or in part. Where a sale of lands proceeds upon an *onerous* cause, the granter is liable in absolute warrantice, though no warrantice be expressed; but in assignments to debts or decrees, no higher warrantice than from fact and deed is implied.

Warrantice.

12. Gratuitous grants by the crown imply no warrantice; and though warrantice should be expressed, the clause is ineffectual, from a presumption that it has crept in by the negligence of the crown's officers. But where the crown makes a grant, not *jure corona*, but for an adequate price, the sovereign is in the same case with his subjects.

13. Absolute warrantice, in case of eviction, affords

Effects of
an warrantice.

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Scotland.

an action to the grantee against the grantor, for making up to him all that he shall have suffered through the defect of the right; and not simply for his indemnification, by the grantor's repayment of the price to him. But as warrandice is penal, and consequently *stricti juris*, it is not easily presumed, nor is it incurred from every light servitude that may affect the subject; far less does it extend to burdens which may affect the subject posterior to the grant, nor to those imposed by public statute, whether before or after, unless specially warranted against.

Real warrandice.

14. *Real warrandice* is either, 1. *Express*, whereby, in security of the lands principally conveyed, other lands, called *warrandice-lands*, are also made over, to which the receiver may have recourse in case the principal lands be evicted. Or, 2. *Tacit*, which is constituted by the exchange or excambion of one piece of ground with another; for, if the lands exchanged are carried off from either of the parties, the law itself, without any paction, gives that party immediate recourse upon his own first lands, given in exchange for the lands evicted.

Excambion.

Precept of
feisin.

15. The charter concludes with a *precept of feisin*, which is the command of the superior grantor of the right to his bailie, for giving feisin or possession to the vassal, or his attorney, by delivering to him the proper symbols. Any person, whose name may be inserted in the blank left in the precept for that purpose, can execute the precept as bailie; and whoever has the precept of feisin in his hands, is presumed to have a power of attorney from the vassal for receiving possession in his name.

Instrument
of feisin.

16. A feisin is the instrument or attestation of a notary, that possession was actually given by the superior or his bailie, to the vassal or his attorney; which is considered as so necessary a solemnity, as not to be suppleable, either by a proof of natural possession, or even of the special fact that the vassal was duly entered to the possession by the superior's bailie.

Symbols
used in feisins.

17. The symbols by which the delivery of possession is expressed, are, for lands, earth, and stone; for rights of annualrent payable forth of land, it is also earth and stone with the addition of a penny money; for parsonage teinds, a sheaf of corn; for jurisdictions, the book of the court; for patronages, a psalm-book, and the keys of the church; for fishings, net and coble; for mills, clap and happer, &c. The feisin must be taken upon the ground of the lands, except where there is a special dispensation in the charter from the crown.

Registration
of feisins.

18. All feisins must be registered within 60 days after their date, either in the general register of feisins at Edinburgh, or in the register of the particular shire appointed by the act 1617; which, it must be observed, is not, in every case, the shire within which the lands lie. Burgage feisins are ordained to be registered in the books of the borough.

19. Unregistered feisins are ineffectual against third parties, but they are valid against the grantors and their heirs. Feisins regularly recorded, are preferable, not according to their own dates, but the dates of their registration.

One feisin
serves in
contiguous
and in uni-
ted tene-
ments.

20. Feisin necessarily supposes a superior by whom it is given; the right therefore which the sovereign, who acknowledges no superior, has over the whole

lands of Scotland, is constituted *jure corone* without feisin. In several parcels of land that lie contiguous to one another, one feisin serves for all, unless the right of the several parcels be either holden of different superiors, or derived from different authors, or enjoyed by different tenures under the same superior. In discontiguous lands, a separate feisin must be taken on every parcel, unless the sovereign has united them into one tenantry by a charter of union; in which case, if there is no special place expressed, a feisin taken on any part of the united lands will serve for the whole, even though they be situated in different shires. The only effect of union is, to give the discontiguous lands the same quality as if they had been contiguous or naturally united; union, therefore, does not take off the necessity of separate feisins, in lands holden by different tenures, or the rights of which flow from different superiors, these being incapable of natural union.

21. The privilege of barony carries a higher right than union does, and consequently includes union in it as the lesser degree. This right of barony can neither be given, nor transmitted, unless by the crown; but the quality of simple union, being once conferred on lands by the sovereign, may be communicated by the vassal to a subvassal. Though part of the lands united or erected into a barony be sold by the vassal to be holden *a me*, the whole union is not thereby dissolved: what remains unsold retains the quality.

22. A charter, not perfected by feisin, is a right merely personal, which does not transfer the property (see N° clxxiii. 1.); and a feisin of itself bears no faith without its warrant: It is the charter and feisin joined together that constitutes the feudal right, and secures the receiver against the effect of all posterior feisins, even though the charters on which they proceed should be prior to his.

23. No quality which is designed as a lien or real burden on a feudal right, can be effectual against singular successors, if it be not inserted in the investiture. If the creditors in the burden are not particularly mentioned, the burden is not real; for no perpetual unknown incumbrance can be created upon lands. Where the right itself is granted with the burden of the sum therein mentioned, or where it is declared void if the sum be not paid against a day certain, the burden is real; but where the receiver is simply obliged by his acceptance to make payment, the clause is effectual only against him and his heirs.

SECT. IV. *Of the several kinds of holding.*

clxv.

FEUDAL subjects are chiefly distinguished by their different manners of holding, which were either *ward*, *blanch*, *feu*, or *burgage*. *Ward holding*, (which is now abolished by 20 Geo. II. c. 50.) was that which was granted for military service. Its proper *reddendo* was, *services*, or *services used and wont*; by which last was meant the performance of service whenever the superior's occasions required it. As all feudal rights were originally held by this tenure, ward-holding was *in dubio* presumed. Hence, though the *reddendo* had contained some special service or yearly duty, the holding was presumed ward, if another holding was not particularly expressed.

2. *Feu holding* is that whereby the vassal is obliged to

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Scotland.

Barony im-
plies union.

A charter
becomes
real only
after feisin.

All burdens
must be in-
serted in
the investi-
ture.

Ward-hold-
ing.

Feu-hold-
ing.

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to pay to the superior a yearly rent in money or grain, and sometimes also in services proper to a farm, as ploughing, reaping, carriages for the superior's use, &c. *nomine feudi firmae*. This kind of tenure was introduced for the encouragement of agriculture, the improvement of which was considerably obstructed by the vassal's obligation to military service. It appears to have been a tenure known in Scotland as far back as *leges burgorum*.

Blanch-
holding.

3. *Blanch*-holding is that whereby the vassal is to pay to the superior an elusory yearly duty, as a penny money, a rose, a pair of gilt spurs, &c. merely in acknowledgment of the superiority, *nomine albe firme*. This duty, where it is a thing of yearly growth, if it be not demanded within the year, cannot be exacted thereafter; and where the words *si petatur tantum* are subjoined to the *reddendo*, they imply a release to the vassal, whatever the quality of the duty may be, if it is not asked within the year.

Burgage-
holding.

4. *Burgage*-holding is that, by which borough-royal hold of the sovereign the lands which are contained in their charters of erection. This, in the opinion of *Craig*, does not constitute a separate tenure, but is a species of ward-holding; with this speciality, that the vassal is not a private person, but a community: and indeed, watching and warding, which is the usual service contained in the *reddendo* of such charters, might be properly enough said, some centuries ago, to have been of the military kind. As the royal borough is the king's vassal, all burgage-holders hold immediately of the crown: the magistrates, therefore, when they receive the resignations of the particular burgesses, and give seisin to them, act, not as superiors, but as the king's bailies specially authorised thereto.

Mortifica-
tion.

5. Feudal subjects, granted to churches, monasteries, or other societies for religious or charitable uses, are said to be mortified, or granted *ad manum mortuam*; either because all casualties must necessarily be lost to the superior, where the vassal is a corporation, which never dies; or because the property of these subjects is granted to a dead hand, which cannot transfer it to another. In lands mortified in times of Popery to the church, whether granted to prelates for the behoof of the church, or in *puram eleemosynam*; the only services prestable by the vassals were prayers, and singing of masses for the souls of the deceased, which approaches nearer to *blanch*-holding than ward. The purposes of such grants having been, upon the reformation, declared superstitious, the lands mortified were annexed to the crown: but mortifications to universities, hospitals, &c. were not affected by that annexation; and lands may, at this day, be mortified to any lawful purpose, either by *blanch* or by *feu* holding. But as the superior must lose all the casualties of superiority in the case of mortifications to churches, universities, &c. which being considered as a corporation, never dies; therefore lands cannot be mortified without the superior's consent. *Craig, lib. 1. dieg. 11. § 21.*

clxvi.

SECT. V. Of the casualties due to the superior.

Fixed rights
of superi-
ority.

THE right of the superior continues unimpaired, notwithstanding the feudal grant, unless in so far as

the *dominium utile*, or property, is conveyed to his vassal. The superiority carries a right to the services and annual duties contained in the *reddendo* of the vassal's charter. The duty payable by the vassal is a *debitum fundi*, i. e. it is recoverable, not only by a personal action against himself, but by a real action against the lands.

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Scotland.

2. Besides the constant fixed rights of superiority, there are others, which, because they depend upon un-
certain events, are called *casualties*.

Casual
rights.

3. The casualties proper to a ward-holding, while that tenure subsisted, were *ward*, *recognition*, and *marriage*, which it is now unnecessary to explain, as by the late statutes 20 and 25 Geo. II. for abolishing ward-holdings, the tenure of the lands holden ward of the crown or prince is turned into *blanch*, for payment of one penny Scots yearly, *si petatur tantum*; and the tenure of those holden of subjects into *feu*, for payment of such yearly feu-duty in money, victual, or cattle, in place of all services, as should be fixed by the court of session. And accordingly that court, by act of sederunt Feb. 8. 1749, laid down rules for ascertaining the extent of these feu-duties. A full history of their casualties, and of the effects consequent upon their falling to the superior, will be found in Erskine's large Institute, B. 2. T. 5. § 5. *et sequen*; to which the reader is referred.

Ward-hold-
ing.

4. The only casualty, or rather forfeiture, proper to feu-holding, is the loss or tinsel of the feu-right, by the neglect of payment of the feu-duty for two full years. Yet where there is no conventional irritancy in the feu-right, the vassal is allowed to purge the legal irritancy at the bar; that is, he may prevent the forfeiture, by making payment before sentence: but where the legal irritancy is fortified by a conventional, he is not allowed to purge, unless where he can give a good reason for the delay of payment.

Feu-hold-
ing.

5. The casualties common to all holdings are, *non-entry*, *relief*, *liferent-escheat*, *disclamation*, and *purpresture*. *NON-ENTRY* is that casualty which arises to the superior out of the rents of the feudal subject, through the heir's neglecting to renew the investiture after his ancestor's death. The superior is intitled to this casualty, not only where the heir has not obtained himself invest, but where his retour or investment is set aside upon nullities. The heir, from the death of the ancestor, till he be cited by the superior in a process of general declarator of non-entry, loses only the retoured duties of his lands, (see next parag.); and he forfeited these, though his delay should not argue any contempt of the superior, because the casualty is considered to fall, as a condition implied in the feudal right, and not as a penalty of transgression: but reasonable excuses are now admitted to liberate even from the retoured duties before citation.

Non-entry.

6. For understanding the nature of retoured duties, it must be known, that there was anciently a general valuation of all the lands in Scotland, designed both for regulating the proportion of public subsidies, and for ascertaining the quantity of non-entry and relief-duties payable to the superior; which appears, by a contract between K. R. Bruce and his subjects anno 1327, preserved in the library of the Faculty of Advocates, to have been settled at least as far back as the reign of Alexander III. This valuation became in the

Retoured
duties.

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Scotland.

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Scotland.

Old and
new ex-
tents.

Valued
rent.

In what
cases non-
entry is not
due.

course of time, by the improvement of agriculture, and perhaps also by the heightening of the nominal value of our money, from the reign of Robert I. downwards to that of James III. much too low a standard for the superior's casualties: wherefore, in all services of heirs, the inquest came at last to take proof likewise of the present value of the lands contained in the brief (*quantum nunc valent*), in order to fix these casualties. The first was called the *old*, and the other the *new, extent*. Though both extents were ordained to be specified in all retours made to the chancery upon briefs of inquest; yet by the appellation of retoured duties in a question concerning casualties, the new extent is always understood. The old extent continued the rule for levying public subsidies, till a tax was imposed by new proportions, by several acts made during the usurpation. By two acts of Cromwell's parliament, held at Westminster in 1656, imposing taxations on Scotland, the rates laid upon the several counties are precisely fixed. The subsidy granted by the act of convention 1667 was levied on the several counties, nearly in the same proportions that were fixed by the usurper in 1656; and the sums to which each county was subjected were subdivided among the individual landholders in that county, according to the valuations already settled, or that should be settled by the commissioners appointed to carry that act into execution. The rent fixed by these valuations is commonly called the *valued rent*; according to which the land-tax, and most of the other public burdens, have been levied since that time.

7. In feu-holdings, the feu-duty is retoured as the rent, because the feu-duty is presumed to be, and truly was at first, the rent. The superior therefore of a feu-holding gets no non-entry, before citation in the general declarator; for he would have been intitled to the yearly feu-duty, though the fee had been full, *i. e.* though there had been a vassal infest in the lands. The superior of teinds gets the fifth part of the retoured duty as non-entry, because the law considers teinds to be worth a fifth part of the rent. In rights of annualrent which are holden of the granter, the annualrenter becomes his debtor's vassal; and the annualrent contained in the right is retoured to the blanch or other duty contained in the right before declarator.

8. It is because the retoured duty is the presumed rent, that the non-entry is governed by it. If therefore no retour of the lands in non-entry can be produced, nor any evidence brought of the retoured duty, the superior is intitled to the real, or at least to the valued, rent, even before citation. In lands formerly holden ward of the King, the heir, in place of the retoured duties, is subjected only to the annual payment of one *per cent.* of the valued rent.

9. The heir, after he is cited by the superior in the action of general declarator, is subjected to the full rents till his entry, because his neglect is less excusable after citation. The decree of declarator, proceeding on this action, intitles the superior to the possession, and gives him right to the rents downward from the citation. As this sort of non-entry is properly penal, our law has always restricted it to the retoured duties, if the heir had a probable excuse for not entering.

10. Non-entry does not obtain in burgage-holdings, because the incorporation of inhabitants holds the whole incorporated subjects of the King; and there

can be no non-entry due in lands granted to communities, because there the vassal never dies. This covers the right of particulars from non-entry: for if non-entry be excluded with regard to the whole, it cannot obtain with regard to any part. It is also excluded, as to a third of the lands, by the terce, during the widow's life; and as to the whole of them, by the courtesy during the life of the husband. But it is not excluded by a precept of feisin granted to the heir till feisin be taken thereupon.

11. RELIEF is that casualty which intitles the superior to an acknowledgment or consideration from the heir for receiving him as vassal. It is called *relief*, because, by the entry of the heir, his fee is relieved out of the hands of the superior. It is not due in feu-holdings flowing from subjects, unless where it is expressed in the charter by a special clause for doubling the feu-duty at the entry of an heir; but, in feu-rights holden of the crown, it is due, though there should be no such clause in the charter. The superior can recover this casualty, either by a poinding of the ground, as a *debitum fundi*, or by a personal action against the heir. In blanch and feu-holdings, where this casualty is expressly stipulated, a year's blanch or feu duty is due in name of *relief*, beside the current year's duty payable in name of *blanch* or *feu farm*.

12. ESCHEAT (from *eschear*, to happen or fall) is that forfeiture which falls through a person's being denounced rebel. It is either *single* or *liferent*. *Single escheat*, though it does not accrue to the superior, must be explained in this place, because of its coincidence with *liferent*.

13. After a debt is constituted, either by a formal decree, or by registration of the ground of debt, which to the special effect of execution, is in law accounted a decree; the creditor may obtain letters of horning, issuing from the signet, commanding messengers to charge the debtor to pay or perform his obligation, within a day certain. Where horning proceeds on a formal decree of the session, the time indulged by law to the debtor is fifteen days; if upon a decree of the commission of teinds or admiral, it is ten; and upon the decrees of all inferior judges, fifteen days. Where it proceeds on a registered obligation, which specifies the number of days, that number must be the rule; and, if no precise number be mentioned, the charge must be given in fifteen days, which is the term of law, unless where special statute interposes; as in bills, upon which the debtor may be charged on six days.

14. The messenger must execute these letters (and indeed all summonses) against the debtor, either personally or at his dwelling-house; and, if he get not access to the house, he must strike six knocks at the gate, and thereafter affix to it a copy of his execution. If payment be not made within the days mentioned in the horning, the messenger, after proclaiming three oyeses at the market-cross of the head borough of the debtor's domicile, and reading the letters there, blows three blasts with a horn, by which the debtor is understood to be proclaimed rebel to the king for contempt of his authority; after which, he must affix a copy of the execution to the market-cross: This is called the *publication of the diligence*, or a *denunciation at the horn*. Where the debtor is not in Scotland, he must be charged on sixty days, and denounced at the market-

Law of Scotland. market-cross of Edinburgh, and pier and shore of Leith.

Consequences thereof. 15. Denunciation, if registered within 15 days, either in the sheriff's books, or in the general register, drew after it the rebel's single escheat, *i. e.* the forfeiture of his moveables to the crown. Persons denounced rebels have not a *persona standi in judicio*; they can neither sue nor defend in any action. But this incapacity being unfavourable, is personal to the rebel, and cannot be pleaded against his assignee.

Denunciation in criminal cases. 16. Persons cited to the court of justiciary may be also denounced rebels, either for appearing there with too great a number of attendants: or, if they fail to appear, they are declared fugitives from the law. Single escheat falls, without denunciation, upon sentence of death pronounced in any criminal trial; and, by special statute, upon one's being convicted of certain crimes, though not capital; as perjury, bigamy, deforcement, breach of arrestment, and usury. By the late act abolishing ward holdings, the casualties both of single and liferent escheat are discharged, when proceeding upon denunciation for civil debts; but they still continue, when they arise from criminal causes. All moveables belonging to the rebel at the time of his rebellion, (whether proceeding upon denunciation, or sentence in a criminal trial), and all that shall be afterwards acquired by him until relaxation, fall under single escheat. Bonds bearing interest, because they continue heritable *quoad fiscum*, fall not under it, nor such fruits of heritable subjects as became due after the term next ensuing the rebellion, these being reserved for the liferent escheat.

17. The king never retains the right of escheat to himself, but makes it over to a donatory, whose gift is not perfected, till, upon an action of general declarator, it be declared that the rebel's escheat has fallen to the crown by his denunciation, and that the right of it is now transferred to the pursuer by the gift in his favour. Every creditor therefore of the rebel, whose debt was contracted before rebellion, and who has used diligence before declarator, is preferable to the donatory. But the escheat cannot be affected by any debt contracted, nor by any voluntary deed of the rebel after rebellion.

Letters of relaxation. 18. The rebel, if he either pays the debt charged for, or suspends the diligence, may procure letters of relaxation from the horn, which, if published in the same place, and registered 15 days thereafter in the same register with the denunciation, have the effect to restore him to his former state; but they have no retrospect as to the moveables already fallen under escheat, without a special clause for that purpose.

Liferent escheat. 19. The rebel, if he continues unrelaxed for year and day after rebellion, is construed to be civilly dead: and therefore, where he holds any feudal right, his superiors, as being without a vassal, are intitled, each of them, to the rents of such of the lands belonging to the rebel as hold of himself, during all the days of the rebel's natural life, by the casualty of LIFERENT ESCHSAT; except where the denunciation proceeds upon treason or proper rebellion, in which case the liferent falls to the king.

20. It is that estate only, to which the rebel has a proper right of liferent in his own person, that falls under his liferent escheat.

21. Though neither the superior nor his donatory can enter into possession in consequence of this casualty, till decree of declarator; yet that decree, being truly declaratory, has a retrospect, and does not so properly confer a new right, as declare the right formerly constituted to the superior, by the civil death of his vassal. Hence, all charters or heritable bonds, though granted prior to the rebellion, and all adjudications, though led upon debts contracted before that period, are ineffectual against the liferent escheat, unless seisin be taken thereon within year and day after the granter's rebellion.

22. Here, as in single escheat, no debt contracted after rebellion can hurt the donatory, nor any voluntary right granted after that period, though in security or satisfaction of prior debts.

23. DISCLAMATION is that casualty whereby a vassal forfeits his whole feu to his superior, if he disowns or disclaims him, without ground, as to any part of it. PURPRESTURE draws likewise a forfeiture of the whole feu after it; and is incurred by the vassal's encroaching upon any part of his superior's property, or attempting by building, inclosing, or otherwise, to make it his own. In both these feudal delinquencies, the least colour of excuse saves the vassal.

24. All grants from the crown, whether charters, gifts of casualties, or others, proceed on signatures which pass the signet. When the king resided in Scotland, all signatures were superscribed by him; but, on the accession of James VI. to the crown of England, a cachet or seal was made, having the king's name engraved on it, in pursuance of an act of the privy-council, April 4. 1603. with which all signatures were to be afterwards sealed, that the lords of exchequer were empowered to pass; and these powers are transferred to the court of exchequer, which was established in Scotland after the union of the two kingdoms in 1707. Grants of higher consequence, as remissions of crimes, gifts proceeding upon forfeiture, and charters of *novodamus*, must have the king's sign manual for their warrant.

25. If lands holding of the crown were to be conveyed, the charter passed, before the union of the kingdoms in 1707, by the great seal of Scotland; and now by a seal substitute in place thereof. Grants of church-dignities, during episcopacy, passed also by the great seal; and the commissions to all the principal officers of the crown, as Justice-Clerk, King's Advocate, Solicitor, &c. do so at this day. All rights which subjects may transmit by simple assignation, the king transmits by the privy-seal: as gifts of moveables, or of casualties that require no seisin. The quarter seal, otherwise called the *testimonial of the great seal*, is appended to gifts of tutory, commissions of brieves issuing from the chancery, and letters of presentation to lands holding of a subject, proceeding upon forfeiture, bastardy, or *ultimus haeres*.

26. Seals are to royal grants what subscription is to rights derived from subjects, and give them authority; they serve also as a check to gifts procured (*subreptione vel obreptione*) by concealing the truth, or expressing a falsehood; for, where this appears, the gift may be stopped before passing the seals, though the signature should have been signed by the king. All rights passing under the great or privy seal must be registered

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Disclamation.

Purpresture.

Signatures.

Seals.

Their uses.

Law of Scotland. in the registers of the great or privy seal *respective*, before appending the seal.

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Dominium utile.

UNDER the *dominium utile* which the vassal acquires by the feudal right, is comprehended the property of whatever is considered as part of the lands, whether of houses, woods, inclosures, &c. above ground; or of coal, limestone, minerals, &c. under ground. Mills have, by the generality of our lawyers, been deemed a separate tenement, and so not carried by a charter or disposition, without either a special clause conveying mills, or the erection of the lands into a barony. Yet it is certain, that, if a proprietor builds a mill on his own lands, it will be carried by his entail, or by a retour, without mentioning it, although the lands are not erected into a barony. If the lands disposed be allotted, or thirled to another mill, the purchaser is not allowed to build a new corn-mill on his property, even though he should offer security that it shall not hurt the thirle; which is introduced for preventing daily temptations to fraud.

2. Proprietors are prohibited to hold dove-cotes, unless their yearly rent, lying within two miles thereof, extend to ten chalders of victual. A purchaser of lands, with a dove-cote, is not obliged to pull it down, though he should not be qualified to build one; but, if it becomes ruinous, he cannot rebuild it. The right of brewing, though not expressed in the grant, is implied in the nature of property; as are also the rights of fishing, fowling, and hunting, in so far as they are not restrained by statute.

Regalia.

3. There are certain rights naturally consequent on property, which are deemed to be preserved by the crown as *regalia*; unless they be specially conveyed. Gold and silver mines are of this sort; the first universally; and the other, where three half-pennies of silver can be extracted from the pound of lead, by act 1424, (three half-pennies at that time was equal to about two shillings five pennies of our present Scots money). These were by our ancient law annexed to the crown; but they are now dissolved from it; and every proprietor is intitled to a grant of the mines within his own lands, with the burden of delivering to the crown a tenth of what shall be brought up.

4. Salmon-fishing is likewise a right understood to be reserved by the crown, if it be not expressly granted; but 40 years possession thereof, where the lands are either erected into a barony, or granted with the general clause of fishings, establishes the full right of the salmon fishing in the vassal. A charter of lands, within which any of the king's forests lie, does not carry the property of such forest to the vassal.

Res publica.

5. All the subjects which were by the Roman law accounted *res publica*, as rivers, highways, ports, &c. are, since the introduction of feus, held to be *inter regalia*, or in *patrimonio principis*; and hence encroachment upon a highway is said to infer purpresture. No person has the right of a free port without a special grant, which implies a power in the grantee to levy anchorage and shore dues, and an obligation upon him to uphold the port in good condition. In this class of things, our forefathers reckoned fortalices, or small

places of strength, originally built for the defence of the country, either against foreign invasions or civil commotions; but these now pass with the lands in every charter.

6. The vassal acquires right by his grant, not only Pertinent to the lands specially contained in the charter, but to those that have been possessed 40 years as pertinent thereof. But, 1. If the lands in the grant are marked out by special limits, the vassal is circumscribed by the tenor of his own right, which excludes every subject without these limits from being pertinent of the lands. 2. A right possessed under an express investment is preferable, *ceteris paribus*, to one possessed only as pertinent. 3. Where neither party is invest *per expressum*, the mutual promiscuous possession by both, of a subject as pertinent, resolves into a commonalty of the subject possessed: but if one of the parties has exercised all the acts of property of which the subject was capable, while the possession of the other was confined to pasturage only, or to casting feal and divot, the first is to be deemed sole proprietor, and the other to have merely a right of servitude.

7. As barony is a *nomen universitatis*, and unites Privileges the several parts contained in it into one individual of barony. right, the general conveyance of a barony carries with it all the different tenements of which it consists, tho' they should not be specially enumerated (and this holds, even without erection into a barony, in lands that have been united under a special name). Hence, likewise, the possession by the vassal of the smallest part of the barony-lands preserves to him the right of the whole.

8. The vassal is intitled, in consequence of his property, to levy the rents of his own lands, and to recover them from his tenants by an action for rent before his own court; and from all other possessors and intruders, by an action of mails and duties before the sheriff. He can also remove from his lands, tenants who have no leases; and he can grant tacks or leases Tack or to others. A tack is a contract of location, whereby lease. the use of land, or any other immoveable subject, is set to the lessee or tacksman for a certain yearly rent, either in money, the fruits of the ground, or services. It ought to be reduced into writing, as it is a right concerning lands; tacks, therefore, that are given verbally, to endure for a term of years, are good against neither party for more than one year. An obligation to grant a tack is as effectual against the granter as a formal tack. A liferenter, having a temporary property in the fruits, may grant tacks to endure for the term of his own liferent.

9. The tacksman's right is limited to the fruits which spring up annually from the subject set, either naturally, or by his own industry; he is not therefore intitled to any of the growing timber above ground, and far less to the minerals, coal, clay, &c. under ground, the use of which consumes the substance. Tacks are, like other contracts, personal rights in their own nature; and consequently ineffectual against singular successors in the lands; but, for the encouragement of agriculture, they were, by act 1449, declared effectual to the tacksman for the full time of their endurance, into whose hands soever the lands might come.

10. To give a written tack the benefit of this statute, it

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it must mention the special tack-duty payable to the proprietor, which though small, if it be not elusory, secures the tackfman; and it must be followed by possession, which supplies the want of a seisin. If a tack does not express the term of entry, the entry will commence at the next term after its date, agreeable to the rule, *Quod pure debetur, presenti die debetur*. If it does not mention the ish, i. e. the term at which it is to determine, it is good for one year only; but, if the intention of parties to continue it for more than one year, should appear from any clause in the tack (e. g. if the tackfman should be bound to certain annual prestations), it is sustained for two years as the *minimum*. Tacks granted to perpetuity, or with an indefinite ish, have not the benefit of the statute. Tacks of houses within borough do not fall within this act, it being customary to let these from year to year.

Tacks are
stricti juris.

11 Tacks necessarily imply a *delectus persone*, a choice by the fetter of a proper person for his tenant. Hence the conveyance of a tack which is not granted to assignees, is ineffectual without the landlord's consent. A right of tack, though it be heritable, falls under the *jus mariti*, because it cannot be separated from the labouring cattle and implements of tillage, which are moveable subjects. A tack, therefore, granted to a single woman, without the liberty of assigning, falls by her marriage; because the marriage, which is a legal conveyance thereof to the husband, cannot be annulled. This implied exclusion of assignees is, however, limited to voluntary, and does not extend to necessary, assignments; as an adjudication of a tack by the tackfman's creditor: but a tack, expressly excluding assignees, cannot be carried even by adjudication. It was not a fixed point for a long time, whether a tenant could sublet without consent of the landlord; but the court of session, in a case which occurred a few years ago, denied the power of subletting in the tenant. Liferent tacks, because they import a higher degree of right in the tackfman than tacks for a definite term, may be assigned, unless assignees be specially excluded.

Tacit relocation.

12. If neither the fetter nor tackfman shall properly discover their intention to have the tack dissolved at the term fixed for its expiration, they are understood, or presumed, to have entered into a new tack upon the same terms with the former, which is called *tacit relocation*; and continues till the landlord warns the tenant to remove, or the tenant renounces his tack to the landlord: this obtains also in the case of moveable tenants, who possess from year to year without written tacks. In judicial tacks, however, by the court of session, tacit relocation neither does nor can take place; for cautioners being interposed to these, they are loosed at the end of the tack: and therefore, where judicial tackfmen possess after expiry of their right, they are accountable as factors.

13. In tacks of land, the fetter is commonly bound to put all the houses and office-houses, necessary for the farm, in good condition at the tenant's entry; and the tenant must keep them and leave them so at his removal. But, in tacks of houses, the fetter must not only deliver to the tenant the subject set, in tenantable repair at his entry, but uphold it in that repair during the whole years of the tack, unless it is otherwise covenanted betwixt the parties.

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14. If the inclemency of the weather, inundation, or calamity of war, should have brought upon the crop an extraordinary damage (*plus quam tolerabile*), the landlord had, by the Roman law, no claim for any part of the tack-duty: if the damage was more moderate, he might exact the full rent. It is nowhere defined, what degree of sterility or devastation makes a loss *plus quam tolerabile*; but the general rule of the Roman law seems to be made ours. Tenants are not obliged to pay any public burdens to which they are not expressly bound by their tack, except mill-services.

Destitution
of tacks.

15. Tacks may be evacuated during their currency, (1.) In the same manner as feu-rights, by the tackfman's running in arrear of his tack-duty for two years together. This irritancy may be prevented by the tenant's making payment at the bar before sentence. (2.) Where the tenant either runs in arrear of one year's rent, or leaves his farm uncultivated at the usual season; in which case he may, by act of sederunt 1756, be ordained to give security for the arrears, and for the rent of the five following crops, if the tack shall subsist so long; otherwise, to remove, as if the tack were at an end. (3.) Tacks may be evacuated at any time by the mutual consent of parties.

Warnings.

16. The landlord, when he intends to remove a tenant whose tack is expiring, or who possesses without a tack, must, upon a precept signed by himself, warn the tenant forty days preceding the term of Whitsunday, at or immediately preceding the ish, personally, or at his dwelling-house, to remove at that term, with his family and effects. This precept must be also executed on the ground of the lands, and thereafter read in the parish-church where the lands lie, after the morning service, and affixed to the most patent door thereof. Whitsunday, though it be a moveable feast, is, in questions of removing, fixed to the 15th of May. In warnings from tenements within borough, it is sufficient that the tenant be warned forty days before the ish of the tack, whether it be Whitsunday or Martinmas; and in these the ceremony of chalking the door is sustained as warning, when proceeding upon a verbal order from the proprietor.

17. This process of warning was precisely necessary for founding an action of removing against tenants, till the act of sederunt 1756, which leaves it in the option of the proprietor, either to use the former method, or to bring his action of removing before the judge-ordinary; which, if it be called 40 days before the said term of Whitsunday, shall be held as equal to a warning. Where the tenant is bound, by an express clause of his tack, to remove at the ish without warning, such obligation is, by the said act, declared to be a sufficient warrant for letters of horning, upon which, if the landlord charge his tenant forty days before the said Whitsunday, the judge is authorized to eject him within six days after the term of removing expressed in the tack.

18. Actions of removing might, even before this act of sederunt, have been pursued without any previous warning (1.) Against vicious possessors, i. e. persons who had seized the possession by force, or who, without any legal title, had intruded into it, after the last possessor had given it up. (2.) Against possessors who had a naked tolerance. (3.) Against tenants who had run in.

Actions off
removing.

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in arrear of rent, during the currency of their tacks. (4.) Against such as had sold their lands, and yet continued to possess after the term of the purchaser's entry. Upon the same ground, warning was not required, in removings against possessors of liferented lands, after the death of the liferenter who died in the natural possession: but if he possessed by tenants, these tenants could not be disturbed in their possessions till the next Whitsunday, that they might have time to look out for other farms; but they might be compelled to remove at that term, by an action of removing, without warning.

19. A landlord's title in a removing, let it be ever so lame, cannot be brought under question by a tenant whose tack flows immediately from him; but, if he is to insist against tenants not his own, his right must be perfected by infestment, unless it be such as requires no infestment; as terce, &c.

Violent
profits.

20. The defender, in a removing, must (by act 1555), before offering any defence which is not instantly verified, give security to pay to the setter the *violent profits*, if they should be awarded against him. These are so called, because the law considers the tenant's possession after the warning as violent. They are estimated, in tenements within borough, to double the rent; and in lands, to the highest profits the pursuer could have made of them, by possessing them either by a tenant or by himself.

Effect of
warning
not insisted
in.

21. If the action of removing shall be passed from, or if the landlord shall, after using warning, accept of rent from the tenant, for any term subsequent to that of the removal, he is presumed to have changed his mind, and tacit relocation takes place. All actions of removing against the principal or original tacksmen, and decrees thereupon, if the order be used, which is set forth *supra* (17.), are, by the act of sederunt 1756, declared to be effectual against the assignees to the tack or subtenants.

Hypothec.

22. The landlord has, in security of his tack-duty, over and above the tenant's personal obligation, a tacit pledge or hypothec, not only on the fruits, but on the cattle pasturing on the ground. The corn, and other fruits, are hypothecated for the rent of that year whereof they are the crop; for which they remain affected, though the landlord should not use his right for years together. In virtue of this hypothec, the landlord is intitled to a preference over any creditor, though he has actually used a poinding; except in the special case, that the poinding is executed after the term of payment, when the landlord can appropriate the crop for his payment, the poinder in such case being obliged to leave as much on the ground as to satisfy the landlord's hypothec: and it has been lately found, that this right of the landlord is preferable even to a debt due to the crown, for which a writ of extent had been issued: but the case here alluded to is presently under appeal.

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23. The whole cattle on the ground, considered as a quantity, are hypothecated for a year's rent, one after another successively. The landlord may apply this hypothec for payment of the past year's rent, at any time within three months from the last conventional term of payment, after which it ceases for that year. As the tenant may increase the subject of this hypothec, by purchasing oxen, sheep, &c. so he can impair it, by selling part of his stock; but if the landlord suspects the tenant's management, he may, by sequestration or poinding, make his right, which was before general upon the whole stock, special upon every individual. A superior has also a hypothec for his feu-duty, of the same kind with that just explained.

24. In tacks of houses, breweries, shops, and other tenements, which have no natural fruits, the furniture and other goods brought into the subject set are hypothecated to the landlord for one year's rent. But the tenant may by sale impair this hypothec, as he might that of cattle in rural tenements; and indeed, in the particular case of a shop, the tenant rents it for no other purpose than as a place of sale.

SECT. VII. *Of the transmission of rights, by confirmation and resignation.*

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A VASSAL may transmit his feu either to universal successors, as heirs; or to singular successors, *i. e.* those who acquire by gift, purchase, or other singular title. This last sort of transmission is either voluntary, by disposition; or necessary, by adjudication.

2. By the first feudal rules, no superior could be compelled to receive any vassal in the lands, other than the heir expressed in the investiture; for the superior alone had the power of ascertaining to what order of heirs the fee granted by himself was to descend. But this right of refusal in the superior did not take place, (1.) In the case of creditors appraisers or adjudgers, whom superiors were obliged to receive upon payment of a year's rent (1469, c. 37. 1672, c. 19.): (2.) In the case of purchasers of bankrupt estates, who were put on the same footing with adjudgers by 1690, c. 20. The crown refuses no voluntary disponee, on his paying a composition to the exchequer of a sixth part of the valued rent. Now, by 20 Geo. II. superiors are directed to enter all singular successors (except incorporations) who shall have got from the vassal a disposition, containing procuratory of resignation; they always receiving the fees or casualties that law intitles them to on a vassal's entry, *i. e.* a year's rent (A).

3. Base rights, *i. e.* dispositions to be holden of the disponent, are transmissions only of the property, the superiority remaining as formerly. As this kind of right might, before establishing the registers, have been kept quite concealed from all but the granter and receiver, a public right was preferable to it, unless cloathed

Base rights.

(A) It was long matter of doubt how this composition due to the superior upon the entry of singular successors should be regulated. The matter at last received a solemn decision; finding, That the superior is intitled, for the entry of singular successors, in all cases where such entries are not taxed, to a year's rent of the subject, whether lands or houses, as the same are set, or may be set at the time; deducting the feu-duty and all public burdens, and likewise all annual burdens imposed on the lands by consent of the superior, with all reasonable annual repairs to houses and other perishable subjects.

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rights.

cloathed with possession: but as this distinction was no longer necessary after the establishment of the records, all infeftments are declared preferable, according to the dates of their several registrations; without respect to the former distinction of base and public, or of being cloathed and not cloathed with possession.

4. Public rights, *i. e.* dispositions to be holden of the granter's superior, may be perfected either by confirmation or resignation; and therefore they generally contain both precept of seisin and procuratory of resignation. When the receiver is to complete his right in the first way, he takes seisin upon the precept: but such seisin is ineffectual without the superior's confirmation; for the disponee cannot be deemed a vassal till the superior receive him as such, or confirm the holding. By the usual style in the transmission of lands, the disposition contains an obligation and precept of infeftment, both *a me* and *de me*, in the option of the disponee; upon which, if seisin is taken indefinitely, it is construed in favour of the disponee to be a base infeftment, because a public right is null without confirmation: but if the receiver shall afterwards obtain the superior's confirmation, it is considered as if it had been from the beginning a public right.

Preference
in confir-
mation.

5. Where two several public rights of the same subject are confirmed by the superior, their preference is governed by the dates of the confirmations, not of the infeftments confirmed; because it is the confirmation which completes a public right.

Effect of
confirma-
tion.

6. Though a public right becomes, by the superior's confirmation, valid from its date; yet if any mid impediment intervene betwixt that period and the confirmation, to hinder the two from being conjoined, *e. g.* if the granter of a public right should afterwards grant a base right to another, upon which seisin is taken before the superior's confirmation of the first, the confirmation will have effect only from its own date; and consequently the base right first completed will carry the *property* of the lands preferable to the public one.

Resigna-
tions.

7. Resignation is that form of law, by which a vassal surrenders his feu to his superior; and it is either *ad perpetuam remanentiam*, or *in favorem*. In resignations *ad remanentiam*, where the feu is resigned, to the effect that it may remain with the superior, the superior, who before had the superiority, acquires, by the resignation, the property also of the lands resigned: and as his infeftment in the lands still subsisted, notwithstanding the right by which he had given his vassal the property; therefore, upon the vassal's resignation, the superior's right of property revives, and is consolidated with the superiority, without the necessity of a new infeftment; but the instrument of resignation must be recorded.

8. Resignations *in favorem* are made, not with an intention that the property resigned should remain with the superior, but that it should be again given by him, in favour either of the resigner himself, or of a third party; consequently the fee remains in the resigner, till the person in whose favour resignation is made gets his right from the superior perfected by seisin. And because resignations *in favorem* are but incomplete personal deeds, our law has made no provision for recording them. Hence, the first seisin on a second resigna-

tion is preferable to the last seisin upon the first resignation; but the superior, accepting a second resignation, whereupon a prior seisin may be taken in prejudice of the first resignatory, is liable in damages.

9. By our former decisions, one who was vested with a personal right of lands, *i. e.* a right not completed by seisin, effectually divested himself by disposing it to another; after which no right remained in the disposer, which could be carried by a second disposition, because a personal right is no more than a *jus obligationis*, which may be transferred by any deed sufficiently expressing the will of the granter. But this doctrine, at the same time that it rendered the security of the records extremely uncertain, was not truly applicable to such rights as required seisin to complete them; and therefore it now obtains, that the granter even of a personal right of lands is not so divested by conveying the right to one person, but that he may effectually make it over afterwards to another; and the preference between the two does not depend on the dates of the dispositions, but on the priority of the seisins following upon them.

SECT. VIII. Of Redeemable Rights.

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AN heritable right is said to be redeemable, when it contains a right of reversion, or return, in favour of the person from whom the right flows. Reversions are either legal, which arise from the law itself, as in adjudications, which law declares to be redeemable within a certain term after their date; or conventional, which are constituted by the agreement of parties, as in wadsets, rights of annualrent, and rights in security. A wadset (from wad or pledge) is a right, by which lands, or other heritable subjects, are impignored by the proprietor to his creditor in security of his debt; and, like other heritable rights, is perfected by seisin. The debtor, who grants the wadset, and has the right of reversion, is called the *reverser*; and the creditor, receiver of the wadset, is called the *wadsetter*.

Reversions
legal.

Wadset.

2. Wadsets, by the present practice, are commonly made out in the form of mutual contracts, in which one party sells the land, and the other grants the right of reversion. When the right of reversion is thus incorporated in the body of the wadset, it is effectual without registration; because the singular successor in the wadset is, in that case, sufficiently certified of the reversion, though it be not registered, by looking into his own right, which bears it *in gremio*. But where the right of reversion is granted in a separate writing, it is ineffectual against the singular successor of the wadsetter, unless it be registered in the register of seisins within 60 days after the date of the seisin upon the wadset.

3. Rights of reversion are generally esteemed *stricti juris*; yet they go to heirs, though heirs should not be mentioned, unless there be some clause in the right, discovering the intention of parties, that the reversion should be personal to the reverser himself. In like manner, though the right should not express a power to redeem from the wadsetter's heir, as well as from himself, redemption will be competent against the heir. All our lawyers have affirmed, that reversions cannot

Reversion
is *stricti ju-
ris*.

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tion.

be assigned, unless they are taken to assignees; but from the favour of legal diligence, they may be adjudged.

4. Reversions commonly leave the reverser at liberty to redeem the lands *quandocunque*, without restriction in point of time; but a clause is adjoined to some reversions, that if the debt be not paid against a determinate day, the right of reversion shall be irritated, and the lands shall become the irredeemable property of the wadsetter. Nevertheless, the irritancy being penal, as in wadsets, where the sum lent falls always short of the value of the lands, the right of redemption is by indulgence continued to the reverser, even after the term has expired, while the irritancy is not declared. But the reverser, if he does not take the benefit of this indulgence within 40 years after the lapse of the term, is cut out of it by prescription.

5. If the reverser would redeem his lands, he must use an order of redemption against the wadsetter: the first step of which is premonition (or notice given under form of instrument) to the wadsetter, to appear at the time and place appointed by the reversion, then and there to receive payment of his debt, and thereupon to renounce his right of wadset. In the voluntary redemption of a right of wadset holden base, a renunciation duly registered re-establishes the reverser in the full right of the lands. Where the wadset was granted to be holden of the granter's superior, the superior must receive the reverser, on payment of a year's rent, if he produce a disposition from the wadsetter, containing procuratory of resignation. If, at executing the wadset, the superior has granted letters of regrefs, *i. e.* an obligation again to enter the reverser upon redemption of the lands, he will be obliged to receive him, without payment of the year's rent. But letters of regrefs will not have this effect against singular successors in the superiority, if they are not registered in the register of reversions. All wadsets that remain personal rights, are extinguished by simple discharges, though they should not be recorded.

Letters of
regrefs.Redemp-
tion money.

6. If the wadsetter either does not appear at the time and place appointed, or refuses the redemption-money, the reverser must consign it under form of instrument, in the hands of the person appointed in the right of reversion; or, if no person be named, in the hands of the clerk to the bills, a clerk of session, or any responsal person. An instrument of consignment, with the consignatory's receipt of the money consigned, completes the order of redemption, stops the farther currency of interest against the reverser, and founds him in an action for declaring the order to be formal, and the lands to be redeemed in consequence of it.

7. After decree of declarator is obtained, by which the lands are declared to return to the debtor, the consigned money, which comes in place of the lands, becomes the wadsetter's, who therefore can charge the consignatory upon letters of horning to deliver it up to him; but, because the reverser may, at any time before decree, pass from his order, as one may do from any other step of diligence, the consigned sums continue to belong to the reverser, and the wadsetter's interest in the wadset continues heritable till that period.

8. If the wadsetter chooses to have his money ra-

ther than the lands, he must require from the reverser, under form of instrument, the sums due by the wadset, in terms of the right. The wadset-sums continue heritable, notwithstanding requisition, which may be passed from by the wadsetter even after the reverser has consigned the redemption-money in consequence thereof.

9. Wadsets are either proper or improper. A proper wadset is that whereby it is agreed, that the use of the land shall go for the use of the money; so that the wadsetter takes his hazard of the rents, and enjoys them without accounting, in satisfaction, or *in solutum* of his interest. Law of
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10. In an improper wadset, the reverser, if the rent should fall short of the interest, is taken bound to make up the deficiency; if it amounts to more, the wadsetter is obliged to impute the excrecence towards extinction of the capital: And, as soon as the whole sums, principal and interest, are extinguished by the wadsetter's possession, he may be compelled to renounce, or divest himself in favour of the reverser.

11. If the wadsetter be intitled by his right to enjoy the rents without accounting, and if at the same time the reverser be subjected to the hazard of their deficiency, such contract is justly declared usurious: and also in all proper wadsets wherein any unreasonable advantage has been taken of the debtor, the wadsetter must (by act 1661), during the not requisition of the sum lent, either quit his possession to the debtor, upon his giving security to pay the interest, or subject himself to account for the surplus-rents, as in improper wadsets.

12. Infeftments of annualrent, the nature of which has been explained, are also redeemable rights. A right of annualrent does not carry the property of the lands; but it creates a real *nexus* or burden upon the property, for payment of the interest or annualrent contained in the right; and consequently the bygone interests due upon it are *debita fundi*. The annualrenter may therefore either insist in a real action for obtaining letters of poinding the ground, or sue the tenant in a personal action towards the payment of his past interest: and in a competition for those rents, the annualrenter's preference will not depend on his having used a poinding of the ground, for his right was completed by the feisin; the power of poinding the ground, arising from that antecedent right, is *mere facultatis*, and need not be exercised, if payment can be otherwise got. As it is only the interest of the sum lent which is a burden upon the lands, the annualrenter, if he wants his principal sum, cannot recover it either by poinding or by a personal action against the debtor's tenants; but must demand it from the debtor himself, on his personal obligation in the bond, either by requisition, or by a charge of letters of horning, according as the right is drawn. Right of
annualrent.

13. Rights of annualrent, being servitudes upon the property, and consequently consistent with the right of property in the debtor, may be extinguished without resignation.

14. Infeftments in security are another kind of redeemable rights (now frequently used in place of rights of annualrent), by which the receivers are infeft in the lands themselves, and not simply in an annualrent forth of them, for security of the principal sums, interest, and Rights of
security.

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Scotland.

and penalty, contained in the rights. If an infeftment in security be granted to a creditor, he may thereupon enter into the immediate possession of the lands or annualrent for his payment. They are extinguished as rights of annualrent.

15. All rights of annualrent, rights in security, and generally whatever constitutes a real burden on the fee, may be the ground of an adjudication, which is preferable to all adjudications, or other diligences, intervening between the date of the right and of the adjudication deduced on it; not only for the principal sum contained in the right, but also for the whole past interest contained in the adjudication. This preference arises from the nature of real debts, or *debita fundi*: but in order to obtain it for the interest of the interest accumulated in the adjudication, such adjudication must proceed on a process of poinding the ground.

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SECT. IX. *Of Servitudes.*Different
kinds of
servitude.

SERVITUDE is a burden affecting lands, or other heritable subjects, whereby the proprietor is either restrained from the full use of what is his own, or is obliged to suffer another to do something upon it. Servitudes are either *natural*, *legal*, or *conventional*. *Nature* itself may be said to constitute a servitude upon inferior tenements, whereby they must receive the water that falls from those that stand on higher ground. *Legal* servitudes are established by statute or custom, from considerations of public policy; among which may be numbered the restraints laid upon the proprietors of tenements within the city of Edinburgh. There is as great a variety of *conventional* servitudes, as there are ways by which the exercise of property may be restrained by paction in favour of another.

2. *Conventional* servitudes are constituted, either by grant, where the will of the party burdened is expressed in writing: or by prescription, where his consent is presumed from his acquiescence in the burden for 40 years. A servitude constituted by writing, or grant, is not effectual against the grantor's singular successors, unless the grantee has been in the use or exercise of his right: but they are valid against the grantor and his heirs, even without use. In servitudes that may be acquired by prescription, 40 years exercise of the right is sufficient, without any title in writing, other than a charter and seisin of the lands to which the servitude is claimed to be due.

3. Servitudes constituted by grant are not effectual, in a question with the superior of the tenement burdened with the servitude, unless his consent be adhibited; for a superior cannot be hurt by his vassal's deed: but where the servitude is acquired by prescription, the consent of the superior, whose right afforded him a good title to interrupt, is implied. A servitude by grant, though followed only by a partial possession, must be governed, as to its extent, by the tenor of the grant; but a servitude by prescription is limited by the measure or degree of the use had by him who prescribes: agreeably to the maxim, *Tantum præscriptum, quantum possessum*.

Predial servitudes.

4. Servitudes are either *predial* or *personal*. *Predial* servitudes are burdens imposed upon one tenement, in favour of another tenement. That to which the servi-

tude is due is called the *dominant*, and that which owes it is called the *servient tenement*. No person can have right to a predial servitude, if he is not proprietor of some dominant tenement that may have benefit by it; for that right is annexed to a tenement, and so cannot pass from one person to another, unless some tenement goes along with it.

5. Predial servitudes are divided into *rural* servitudes, or of lands; and *urban* servitudes, or of houses. The *Rural servitudes* of the Romans were *iter*, *actus*, *via*, *aquæductus*, *aquæhaustus*, and *jus pascendi pecoris*. Similar servitudes may be constituted with us, of a foot-road, horse-road, cart-road, dams, and aqueducts, watering of cattle, and pasturage. The right of a highway is not a servitude constituted in favour of a particular tenement, but is a right common to all travellers. The care of high-ways, bridges, and ferries, is committed to the sheriffs, justices of peace, and commissioners of supply in each shire.

6. Common pasturage, or the right of feeding one's cattle upon the property of another, is sometimes constituted by a general clause of pasturage in a charter or disposition, without mentioning the lands burdened; in which case, the right comprehends whatever had been formerly appropriated to the lands disposed out of the grantor's own property, and likewise all pasturage due to them out of other lands. When a right of pasturage is given to several neighbouring proprietors, on a moor or common belonging to the grantor, indefinite as to the number of cattle to be pastured, the extent of their several rights is to be proportioned according to the number that each of them can fodder in winter upon his own dominant tenement.

7. The chief servitudes of houses among the Romans were those of support, viz. *tigni immittendi*, and *oneris ferendi*. The first was the right of fixing in our neighbours wall a joist or beam from our house: the second was that of resting the weight of one's house upon his neighbour's wall.

8. With us, where different floors or stories of the same house belong to different persons, as is frequent in the city of Edinburgh, the property of the house cannot be said to be entirely divided; the roof remains a common roof to the whole, and the area on which the house stands supports the whole; so that there is a communication of property, in consequence of which the proprietor of the ground-floor must, without the constitution of any servitude, uphold it for the support of the upper, and the owner of the highest story must uphold that as a cover to the lower. When the highest floor is divided into garrets among the several proprietors, each proprietor is obliged, according to this rule, to uphold that part of the roof which covers his own garret.

9. No proprietor can build, so as to throw the rain-water falling from his own house, immediately upon his neighbour's ground, without a special servitude, which is called of *stillicide*; but, if it falls within his own property, though at the smallest distance from the march, the owner of the inferior tenement must receive it.

10. The servitudes *altius non tollendi*, et *non officien- di luminibus vel prospectui*, restrain proprietors from raising their houses beyond a certain height, or from making any building whatsoever that may hurt the light

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or prospect of the dominant tenement. These servitudes cannot be constituted by prescription alone: for, though a proprietor should have his house ever so low, or should not have built at all upon his grounds for 40 years together, he is presumed to have done so for his own convenience or profit; and therefore cannot be barred from afterwards building a house on his property, or raising it to what height he pleases, unless he be tied down by his own consent.

Servitude of
feal and di-
vot.

11. We have two predial servitudes to which the Romans were strangers, viz. that of fuel or feal and divot, and of thirlage. The first is a right, by which the owner of the dominant tenement may turn up peats, turfs, feals, or divots, from the ground of the servient, and carry them off either for fuel, or thatch, or the other uses of his own tenement.

Thirlage.

12. THIRLAGE is that servitude, by which lands are restricted, or thirled, to a particular mill; and the possessors bound to grind their grain there, for payment of certain multures and sequels as the agreed price of grinding. In this servitude, the mill is the dominant tenement, and the lands restricted (which are called also the *thirl* or *sucken*) the servient. Multure is the quantity of grain or meal payable to the proprietor of the mill, or to the multerer his tacksman. The sequels are the small quantities given to the servants, under the name of *knave'ship*, *bannock*, and *lock* or *gowpen*. The quantities paid to the mill by the lands not restricted, are generally proportioned to the value of the labour, and are called *out-town* or *out-sucken multures*; but those paid by the thirl are ordinarily higher, and are called *in town* or *in sucken multures*.

13. Thirlage may be constituted by a land-holder, when, in the disposition of certain lands, he restricts them to his own mill; or when, in the disposition of a mill, he restricts his own lands to the mill disposed; or when, in letting his lands, he makes it a condition in the tacks. The grant of a mill with the general clause of multures, without specifying the lands restricted, conveys the thirlage of all the lands formerly restricted to that mill, whether they were the property of the granter, or of a third party.

14. A less formal constitution serves to restrict barony-lands to the mill of the barony, than is necessary in any other thirlage; which perhaps proceeds from the effects of the union betwixt the two. Hence, if a baron makes over the mill of a barony, *cum multuris*, or *cum restrictis multuris*, it infers an restriction of the barony lands to the mill conveyed, although they had not formerly been restricted. But if, prior to the baron's conveyance of his mill *cum multuris*, he had sold any part of the barony-lands to another *cum multuris*, the first purchaser's lands are not restricted by the posterior grant; for a right of lands with the multures, implies a freedom of these lands from thirlage.

15. Thirlage is either, 1. Of grindable corns; or, 2. Of all growing corns; or, 3. Of the *inveſta et illata*, i. e. of all the grain brought within the thirl, though of another growth. Where the thirlage is of grindable grain, it is in practice restricted to the corns which the tenants have occasion to grind, either for the support of their families, or for other uses; the surplus may be carried out of the thirl unmanufactured, without being liable in multure. Where it is of the *grana crescentia*, the whole grain growing upon the thirl is

restricted, with the exceptions, 1. Of seed and horse-corn, which are destined to uses inconsistent with grinding; and, 2. Of the farm-duties due to the landlord, if they are delivered in grain not grinded. But, if the rent be payable in meal, flour, or malt, the grain of which these are made must be manufactured in the dominant mill.

16. The thirlage of *inveſta et illata* is seldom constituted but against the inhabitants of a borough or village, that they shall grind all the unmanufactured grain they import thither at the dominant mill. Multure, therefore, cannot be exacted in a thirlage of *inveſta et illata*, for flour or oat-meal brought into the servient tenement, unless the importer had bought it in grain, and grinded it at another mill. The same grain that owes multure, as *grannum crescens*, to the mill in whose thirl it grew, if it shall be afterwards brought within a borough where the *inveſta et illata* are thirled, must pay a second multure to the proprietor of that dominant tenement; but, where the right of these two thirlages is in the same proprietor, he cannot exact both. Where lands are thirled in general terms, without expressing the particular nature of the servitude, the lightest thirlage is presumed, from the favour of liberty; but in the restriction of a borough or village, where there is no growing grain which can be the subject of thirlage, the restriction of *inveſta et illata* must be necessarily understood.

17. Thirlage, in the general case, cannot be established by prescription alone, for *ius quæ sunt meræ facultatis non præſcribitur*; but where one has paid for 40 years together the heavy insucken multures, the slightest title in writing will subject his lands. Thirlage may, contrary to the common rule, be constituted by prescription alone, 1. Where one pays to a mill a certain sum, or quantity of grain yearly, in name of multure, whether he grinds at it or not, (called *dry multure*). 2. In mills of the king's property; which is constituted *jure coronæ*, without titles in writing; and, where he derives right from another, his titles are more liable to be lost. This is extended in practice to mills belonging to church-lands, where thirty years possession is deemed equivalent to a title in writing, from a presumption that their rights were destroyed at the reformation. Though thirlage itself cannot be constituted by mere possession, the proportion of multure payable to the dominant tenement may be so fixed.

18. The possessors of the lands restricted are bound to uphold the mill, repair the dam-dykes and aqueducts, and bring home the millstones. These services, though not expressed in the constitution, are implied.

19. Servitudes, being restraints upon property, are *stricti juris*: they are not therefore presumed, if the acts upon which they are claimed can be explained consistently with freedom; and, when servitudes are constituted, they ought to be used in the way least burdensome to the servient tenement. Hence, one who has a servitude of peats upon his neighbour's moss, is not at liberty to extend it for the use of any manufacture which may require an extraordinary expence of fuel; but must confine it to the natural uses of the dominant tenement.

20. Servitudes are extinguished, (1.) *Confusione*, when the person comes to be proprietor of the dominant

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Servitudes
are *stricti ju-
ris*.

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nant and servient tenements; for *res sua nomini servit*, and the use the proprietor thereafter makes of the servient tenement is not *jure servitutis*, but is an act of property. (2.) By the perishing either of the dominant or servient tenement. (3.) Servitudes are lost *non utendo*, by the dominant tenement neglecting to use the right for 40 years; which is considered as a dereliction of it, though he who has the servient tenement should have made no interruption by doing acts contrary to the servitude.

21. *Personal* servitudes are those by which the property of a subject is burdened, in favour, not of a tenement, but of a person. The only personal servitude known in our law, is usufruct or liferent; which is a right to use and enjoy a thing during life, the substance of it being preserved. A liferent cannot therefore be constituted upon things which perish in the use; and though it may upon subjects which gradually wear out by time, as household furniture, &c. yet with us, it is generally applied to heritable subjects. He whose property is burdened, is usually called the *fiar*.

Liferent.

Liferents.

22. Liferents are divided into *conventional* and *legal*. *Conventional* liferents are either *simple*, or *by reservation*. A *simple* liferent, or by a separate constitution, is that which is granted by the proprietor in favour of another: And this sort, contrary to the nature of predial servitudes, requires seisin in order to affect singular successors; for a liferent of lands is, in strict speech, not a servitude, but a right resembling property which constitutes the liferenter vassal for life; and singular successors have no way of discovering a liferent-right, which perhaps is not yet commenced, but by the records; whereas, in predial servitudes, the constant use of the dominant tenement makes them public. The proper right of liferent is intransmissible; *offibus usufructuarii inheret*: When the profits of the liferented subject are transmitted to another, the right becomes merely personal: for it intitles the assignee to the rent, not during his own life, but his cedent's; and is therefore carried by simple assignation, without seisin.

23. A liferent *by reservation*, is that which a proprietor reserves to himself in the same writing by which he conveys the fee to another. It requires no seisin; for the granter's former seisin, which virtually included the liferent, still subsists as to the liferent which is expressly reserved. In conjunct infeftments taken to husband and wife, the wife's right of conjunct fee resolves, in the general case, into a liferent.

Terce.

24. Liferents, *by law*, are the *terce* and the *courtesy*. The *terce* (*tertia*) is a liferent competent by law to widows, who have not accepted of special provisions, in the third of the heritable subjects in which their husbands died infeft; and takes place only where

the marriage has subsisted for year and day, or where a child has been born alive of it (A).

25. The *terce* is not limited to lands, but extends to teinds, and to servitudes and other burdens affecting lands; thus, the widow is intitled, in the right of her *terce*, to a liferent of the third of the sums secured, either by rights of annualrent; or by rights in security. In improper wadsets, the *terce* is a third of the sum lent: In those that are proper, it is a third of the wadset lands; or, in case of redemption, a third of the redemption money. Neither rights of reversion, superiority, nor patronage, fall under the *terce*; for none of these have fixed profits, and so are not proper subjects for the widow's subsistence; nor tacks, because they are not feudal rights. Burgage-tenements are also excluded from it, the reason of which is not so obvious. Since the husband's seisin is both the measure and security of the *terce*, such debts or diligences alone, as exclude the husband's seisin, can prevail over it.

26. Where a *terce* is due out of lands burdened with a prior *terce* still subsisting, the second *tercer* has only right to a third of the two thirds that remain unaffected by the first *terce*. But upon the death of the first widow, whereby the lands are disburdened of her *terce*, the lesser *terce* becomes enlarged, as if the first had never existed. A widow, who has accepted of a special provision from her husband, is thereby excluded from the *terce*, unless such provision shall contain a clause that she shall have right to both.

27. The widow has no title of possession, and so cannot receive the rents in virtue of her *terce*, till she be served to it; and in order to this, she must obtain a brief out of the chancery, directed to the sheriff, who calls an inquest, to take proof that she was wife to the deceased, and that her husband died infeft in the subjects contained in the brief. The service or sentence of the jury, finding these points proved, does, without the necessity of a retour to the chancery, intitle the wife to enter into the possession; but she can only possess with the heir *pro indiviso*, and so cannot remove tenants till the sheriff kens her to her *terce*, or divides the lands between her and the heir. In this division, after determining by lot or kaval, whether to begin by the sun or the shade, *i. e.* by the east or the west, the sheriff sets off the two first acres for the heir, and the third for the widow. Sometimes the division is executed, by giving one entire farm to the widow, and two of equal value to the heir. The widow's right is not properly constituted by this service; it was constituted before by the husband's seisin, and fixed by his death; the service only declares it, and so intitles her to the third part of the rents *retro* to her husband's death, preferable to any rights that may have affected the lands in the intermediate period between that and her own

(A) In the case referred to, when treating of the effects of the dissolution of marriage within the year without a living child, and where no special provisions had been granted to, or accepted by, the widow; she did not demand her *legal* provisions of *terce* or *jus relictae*, but merely insisted, that as widow she was intitled to be *alimented* out of the heritable estate of which her husband died possessed: So that the decision in that case cannot so properly be said to be an alteration in the law, as an equitable interposition of the court of session, in their capacity as a court of equity, in order to grant a subsistence to the widow of a man whose estate was fully sufficient, and who, it could not reasonably be presumed, would have inclined that his widow should be left destitute, when his estate went perhaps to a distant series of heirs.

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Courtesy.

own service. The relict, if she was reputed to be lawful wife to the deceased, must be served, notwithstanding any objections by the heir against the marriage, which may be afterwards tried by the commissary.

28. *Courtesy* is a liferent given by law, to the surviving husband, of all his wife's heritage in which she died infest, if there was a child of the marriage born alive. A marriage, though of the longest continuance, gives no right to the courtesy, if there was no issue of it. The child born of the marriage must be the mother's heir: If she had a child of the former marriage, who is to succeed to her estate, the husband has no right to the courtesy while such child is alive; so that the courtesy is due to the husband, rather as father to an heir, than as husband to an heiress. Heritage is here opposed to conquest; and so is to be understood only of the heritable rights to which the wife succeeded as heir to her ancestors, excluding what she herself had acquired by singular titles.

29. Because the husband enjoys the liferent of his wife's whole heritage, on a lucrative title, he is considered as her temporary representative; and so is liable in payment of all the yearly burdens chargeable on the subject, and of the current interest of all her debts, real and personal, to the value of the yearly rent he enjoys by the courtesy. The courtesy needs no solemnity to its constitution: That right which the husband had to the rents of his wife's estate during the marriage, *jure mariti*, is continued with him after her death, under the name of *courtesy*, by an act of the law itself. As in the terce, the husband's seisin is the ground and measure of the wife's right; so in the courtesy, the wife's seisin is the foundation of the husband's; and the two rights are, in all other respects, of the same nature; if it is not that the courtesy extends to burgage holdings, and to superiorities.

30. All liferenters must use their right *salva rei substantia*: whatever therefore is part of the fee itself, cannot be incroached on by the liferenter, e. g. woods or growing timber, even for the necessary uses of the liferented tenement. But, where a coppice or *silva cadua* has been divided into hags, one of which was in use to be cut annually by the proprietor, the liferenter may continue the former yearly cuttings; because these are considered as the annual fruits the subject was intended to yield, and so the proper subject of a liferent.

31. Liferenters are bound to keep the subject liferented in proper repair. They are also burdened with the alimony of the heir, where he has not enough for maintaining himself. The bare right of apparency founds the action against the liferenter. It is a burden personal to the liferenter himself, and cannot be thrown upon his adjudging creditors as coming in his place by their diligences. Liferenters are also subjected to the payment of the yearly cesses, stipends, &c. falling due during their right, and to all other burdens that attend the subject liferented.

32. Liferent is extinguished by the liferenter's death. That part of the rents which the liferenter had a proper right to, before his death, falls to his executors; the rest, as never having been *in bonis* of the deceased, goes to the fiar. Martinmas and Whitsunday are, by our custom, the legal terms of the payment of rent: consequently, if a liferenter of lands survives the term of Whitsunday, his executors are intitled to the half

of that year's rent, because it was due the term before his death; and if he survives the term of Martinmas, they have right to the whole. If the liferenter, being in the natural possession, and having first sowed the ground, should die, even before Whitsunday, his executors are intitled to the whole crop, in respect that both seed and industry were his. In a liferent of money constituted by a moveable bond, the executors have a right to the interest, down to the very day of the liferenter's death, where no terms are mentioned for the payment thereof; but in the case of an heritable bond, or of a money liferent secured on land, the interests of liferenter and fiar (or of heir and executor, for the same rules serve to fix the interests of both) are both governed by the legal terms of land-rent, without regard to the conventional.

SECT. X. Of Teinds.

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TEINDS, or tithes, are that liquid proportion of our rents or goods, which is due to churchmen, for performing divine service, or exercising the other spiritual functions proper to their several offices. Most of the canonists affirm, that the precise proportion of a tenth, not only of the fruits of the ground, but of what is acquired by personal industry, is due to the Christian clergy, of divine right, which they therefore call the *proper patrimony of the church*; though it is certain that tithes, in their infancy, were given, not to the clergy alone, but to lay-monks who were called *pau-peres*, and to other indigent persons. Charles the Great was the first secular prince who acknowledged this right in the church. It appears to have been received with us, as far back as David I.

2. The person employed by a cathedral church or monastery to serve the cure in any church annexed was called a *vicar*, because he held the church, not in his own right, but in the right or *vice* of his employers; and so was removeable at pleasure, and had no share of the benefice, other than what they thought fit to allow him: but, in the course of time, the appellation of *vicar* was limited to those who were made perpetual, and who got a stated share of the benefice for their incumbency; from whence arose the distinction of benefices into parsonages and vicarages.

3. Parsonage teinds are the teinds of corn; and they are so called because they are due to the parson or other titular of the benefice. Vicarage teinds are the small teinds of calves, lint, hemp, eggs, &c. which were commonly given by the titular to the vicar who served the cure in his place. The first sort was universally due, unless in the case of their infeudation to laics, or of a pontifical exemption; but, by the customs of almost all Christendom, the lesser teinds were not demanded where they had not been in use to be paid. By the practice of Scotland, the teinds of animals, or of things produced from animals, as lambs, wool, calves, herbs, &c. are not tithable, unless use of payment be proved: neither are personal teinds (*i. e.* the tenth of what one acquires by his own industry) acknowledged by our law: yet they have been found due, when supported by 40 years possession.

4. The parson who was intitled to the teind of corns, made his right effectual, either by accepting of a cer-

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tain number of teind-bolls yearly from the proprietor in satisfaction of it; or, more frequently, by drawing or separating upon the field his own tenth part of the corn, after they were reaped, from the stock or the remaining nine-tenths of the crop, and carrying it off to his own granaries; which is called *drawn teind*.

Annexation
of church-
lands to the
crown.

5. After the reformation, James VI. considered himself as proprietor of all the church-lands; partly because the purposes for which they had been granted were declared superstitious; and partly, in consequence of the resignations which he, and queen Mary his mother, had procured from the beneficiaries: and even as to the teinds, though our reformed clergy also claimed them as the patrimony of the church, our sovereign did not submit to that doctrine farther than extended to a competent provision for ministers. He therefore erected or secularised several abbacies and priories into temporal lordships; the grantees of which were called sometime *lords of erection*, and sometimes *titulars*, as having by their grants the same title to the erected benefices that the monasteries had formerly.

6. As the crown's revenue suffered greatly by these erections, the temporality of all church benefices (*i. e.* church lands) was, by 1587. *c.* 29. annexed to the crown. That statute excepts from the annexation such benefices as were established before the reformation in laymen, whose rights the legislature had no intention to weaken. Notwithstanding this statute, his majesty continued to make farther erections, which were declared null by 1592, *c.* 119. with an exception of such as had been made in favour of lords of parliament since the general act of annexation in 1587.

7. King Charles I. soon after his succession, raised a reduction of all these erections, whether granted before or after the act of annexation, upon the grounds mentioned at length by Mr Forbes in his treatise of tithes, p. 259. At last the whole matter was referred to the king himself by four several submissions or compromises; in which the parties on one side were the titulars and their tacksmen, the bishops with the inferior clergy, and the royal boroughs, for the interest they had in the teinds that were gifted for the provision of ministers, schools, or hospitals within their boroughs; and, on the other part, the proprietors who wanted to have the leading of their own teinds. The submission by the titulars contained a surrender into his majesty's hands of the superiorities of their several erections.

Valuation
of teinds.

8. Upon each of these submissions his majesty pronounced separate decrees arbitral, dated Sept. 2. 1629, which are subjoined to the acts of parliament of his reign. He made it lawful to proprietors to sue the titulars for a valuation, and if they thought fit for a sale also, of their teinds, before the commissioners named or to be named for that purpose. The rate of teind, when it was possessed by the proprietor jointly with the stock, for payment of a certain duty to the titular, and so did not admit a separate valuation, was fixed at a fifth part of the constant yearly rent, which was accounted a reasonable *surrogatum*, in place of a tenth of the increase. Where it was drawn by the titular, and consequently might be valued separately from the stock, it was to be valued as its extent should be ascertained upon a proof before the commissioners; but in this last valuation, the king directed the fifth part to be deducted from the proved teind, in favour of the proprietor,

which was therefore called the *king's ease*. The proprietor suing for a valuation gets the leading of his own teinds as soon as his suit commences, providing he does not allow protestation to be extracted against him for not insisting.

9. Where the proprietor insisted also for a sale of his teinds, the titular was obliged to sell them at nine years purchase of the valued teind-duty. If the pursuer had a tack of his own teinds, not yet expired; or if the defender was only tacksmen of the teinds, and so could not give the pursuer an heritable right; an abatement of the price was to be granted accordingly by the commissioners.

10. There is no provision in the decrees arbitral, for selling the teinds granted for the sustentation of ministers, universities, schools, or hospitals; because these were to continue, as a perpetual fund, for the maintenance of the persons or societies to whom they were appropriated; and they are expressly declared not subject to sale, by 1690, *c.* 30.—1693, *c.* 23. By the last of these acts, it is also provided, that the teinds belonging to bishops, which had then fallen to the crown upon the abolishing of episcopacy, should not be subject to sale as long as they remained with the crown not disposed of; nor those which the proprietor, who had right both to stock and teind, reserved to himself in a sale or feu of the lands. But, though none of these teinds can be sold, they may be valued.

11. The king, by the decrees arbitral, declared his own right to the superiorities of erection which had been resigned to him by the submission, reserving to the titulars the feu-duties thereof, until payment by himself to them of 1000 merks Scots for every chaldron of feu-victual, and for each 100 merks of feu-duty; which right of redeeming the feu-duties was afterwards renounced by the crown. If the church-vassal should consent to hold his lands of the titular, he cannot thereafter recur to the crown as his immediate superior.

King's right
to the super-
riorities of
erection.

12. In explaining what the constant rent is by which the teind must be valued, the following rules are observed. The rent drawn by the proprietor from the sale of subjects, that are more properly parts of the land than of the fruits, *e. g.* quarries, minerals, mosses, &c. is to be deducted from the rental of the lands; and also the rent of supernumerary houses, over and above what is necessary for agriculture; and the additional rent that may be paid by the tenant, in consideration of the proprietor's undertaking any burden that law imposes on the tenant, *e. g.* upholding the tenant's houses, because none of these articles are paid properly on account of the fruits. Orchards must also be deducted, and mill rent, because the profits of a mill arise from industry; and the corns manufactured there suffer a valuation as rent payable by the tenant, and therefore ought not to be valued a second time against the titular as mill-rent. The yearly expence of culture ought not to be deducted; for no rent can be produced without it: but, if an improvement of rent is made at an uncommon expence, *e. g.* by draining a lake, the proprietor is allowed a reasonable abatement on that account.

Rules for
fixing the
rent in the
valuation of
teinds.

13. Notwithstanding the several ways of misapplying parochial teinds in the times of Popery, some few benefices remained entire in the hands of the parsons. &c.

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The ministers planted in these, after the reformation, continued to have the full right to them, as proper beneficiaries: but a power was afterwards granted to the patron, to redeem the whole teind from such beneficiaries, upon their getting a competent stipend modified to them; which teind so redeemed, the patron is obliged to sell to the proprietor, at six years purchase.

14. Some teinds are more directly subject to an allocation for the minister's stipend than others. The teinds in the hands of the lay titular fall first to be allocated, who, since he is not capable to serve the cure in his own person, ought to provide one who can; and if the titular, in place of drawing the teind, has set it in tack, the tack-duty is allocated: this sort is called *free teind*. Where the tack-duty, which is the titular's interest in the teinds, falls short, the tack itself is burdened, or, in other words, the surplus teind over and above the tack-duty: but, in this case, the commissioners are empowered to recompense the tacksmen, by prorogating his tack for such a number of years as they shall judge equitable. Where this likewise proves deficient, the allocation falls on the teinds heritably conveyed by the titular, unless he has warranted his grant against future augmentations; in which case, the teinds of the lands belonging in property to the titular himself must be allocated in the first place.

15. Where there is sufficiency of free teinds in a parish, the titular may allocate any of them he shall think fit for the minister's stipend, since they are all his own; unless there has been a previous decree of locality: and this holds, though the stipend should have been paid immemorially out of the teinds of certain particular lands. This right was frequently abused by titulars, who, as soon as a proprietor had brought an action of sale of his teinds, allocated the pursuer's full teind for the stipend, whereby such action became ineffectual: it was therefore provided, that after citation in a sale of teinds, it shall not be in the titular's power to allocate the pursuer's teinds solely, but only in proportion with the other teinds in the parish.

Ministers
glebes, &c.
exempted
from teinds.

16. Ministers glebes are declared free from the payment of teind. Lands *cum decimis inclusis* are also exempted from teind. But in order to exempt lands from payment of teind, it is necessary that the proprietor prove his right thereto, *cum decimis inclusis*, as far back as the above act of annexation 1587.

17. Teinds are *debita fructuum*, not *fundi*. The action therefore for bygone teinds is only personal, against those who have intermeddled, unless where the titular is infest in the lands, in security of the valued teind duty. Where a tenant is, by his tack, bound to pay a joint duty to the landlord for stock and teind, without distinguishing the rent of each, his defence of a *bona fide* payment of the whole to the landlord has been sustained in a suit at the instance of a laic titular, but repelled where a churchman was pursuer. In both cases the proprietor who receives such rent is liable as intermeddler.

Inhibition
of teinds.

18. In tacks of teinds, as of lands, there is place for tacit relocation: to stop the effect of which, the titular must obtain and execute an inhibition of teinds against the tacksmen; which differs much from inhibition of lands (explained under the next section), and

N^o 177.

is intended merely to interpel or inhibit the tacksmen from farther intermeddling. This diligence of inhibition may also be used at the suit of the titular, against any other possessor of the teinds; and if the tacksmen or possessor shall intermeddle after the inhibition is executed, he is liable in a *spuilzie*.

19. Lands and teinds pass by different titles: a disposition of lands, therefore, though granted by one who has also right to the teind, will not carry the teind, unless it shall appear from special circumstances that a sale of both was designed by the parties. In lands *cum decimis inclusis*, where the teinds are consolidated with the stock, the right of both must necessarily go together in all cases.

SECT. XI. Of inhibitions.

clxxi.

THE constitution and transmission of feudal rights being explained, and the burdens with which they are chargeable, it remains to be considered how these rights may be affected at the suit of creditors by legal diligence. Diligences are certain forms of law, where- Diligences. by a creditor endeavours to make good his payment, either by affecting the person of his debtor, or by securing the subjects belonging to him from alienation, or by carrying the property of these subjects to himself. They are either real or personal. Real diligence is that which is proper to heritable or real rights; personal, is that by which the person of the debtor may be secured, or his personal estate affected. Of the first sort we have two, *viz.* inhibition and adjudication.

2. Inhibition is a personal prohibition, which passes Inhibition. by letters under the signet, prohibiting the party inhibited to contract any debt, or do any deed, by which any part of his lands may be aliened or carried off in prejudice of the creditor inhibiting. It must be executed against the debtor, personally, or at his dwelling-house, as summonses, and thereafter published and registered in the same manner with interdictions, (see N^o clxxxiii. 21.)

3. Inhibition may proceed, either upon a liquid obligation, or even on an action commenced by a creditor for making good a claim not yet sustained by the judge; which last is called *inhibition upon a depending action*. The summons, which constitutes the dependence, must be executed against the debtor before the letters of inhibition pass the signet; for no suit can be said to depend against one till he be cited in it as a defender: but the effect of such inhibition is suspended till decree be obtained in the action against the debtor; and in the same manner, inhibitions on conditional debts have no effect till the condition be purified. Inhibitions are not granted, without a trial of the cause, when they proceed on conditional debts. And though, in other cases, inhibitions now pass of course, the lords are in use to stay, or recal them, either on the debtor's showing cause why the diligence should not proceed, or even *ex officio* where the ground of the diligence is doubtful.

4. Though inhibitions, by their uniform style, disable the debtor from selling his moveable as well as his heritable estate, their effect has been long limited to heritage, from the interruption that such an embargo upon moveables must have given to commerce; fo

Limited to
heritage.

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so that debts contracted after inhibition may be the foundation of diligence against the debtor's person and moveable estate. An inhibition secures the inhibitor against the alienation, not only of lands that belonged to his debtor when he was inhibited, but of those that he shall afterwards acquire: but no inhibition can extend to such after-purchases as lie in a jurisdiction where the inhibition was not registered; for it could not have extended to these though they had been made prior to the inhibition.

5. This diligence only strikes against the voluntary debts or deeds of the inhibited person: it does not restrain him from granting necessary deeds, *i. e.* such as he was obliged to grant anterior to the inhibition, since he might have been compelled to grant these before the inhibitor had acquired any right by his diligence. By this rule, a wadsetter or annualrenter might, after being inhibited, have effectually renounced his right to the reverser on payment, because law could have compelled him to it; but to secure inhibitors against the effect of such alienations, it is declared by act of sederunt of the court of session, Feb. 19. 1680, that, after intimation of the inhibition to the reverser, no renunciation or grant of redemption shall be sustained, except upon declarator of redemption brought by him, to which the inhibitor must be made a party.

Is simply
prohibitory

6. An inhibition is a diligence simply prohibitory, so that the debt, on which it proceeds, continues personal after the diligence; and consequently, the inhibitor, in a question with anterior creditors whose debts are not struck at by the inhibition, is only preferable from the period at which his debt is made real by adjudication: and where debts are contracted on heritable security, though posterior to the inhibition, the inhibitor's debt, being personal, cannot be ranked with them; he only draws back from the creditors ranked the sums contained in his diligence. The heir of the person inhibited is not restrained from alienation by the diligence used against his ancestor; for the prohibition is personal, affecting only the debtor against whom the diligence is used.

7. Inhibitions do not, of themselves, make void the posterior debts or deeds of the person inhibited; they only afford a title to the user of the diligence to set them aside, if he finds them hurtful to him: and even where a debt is actually reduced *ex capite inhibitionis*, such reduction, being founded solely in the inhibitor's interest, is profitable to him alone, and cannot alter the natural preference of the other creditors.

Purging of
inhibitions.

8. Inhibitions may be reduced upon legal nullities, arising either from the ground of debt or the form of diligence. When payment is made by the debtor to the inhibitor, the inhibition is said to be *purged*. Any creditor, whose debt is struck at by the inhibition, may, upon making payment to the inhibitor, compel him to assign the debt and diligence in his favour, that he may make good his payment the more effectually against the common debtor.

clxxii.

SECT. XII. Of comprisings, adjudications, and judicial sales.

HERITABLE rights may be carried from the debtor to the creditor, either by the diligence of apprising (now adjudication), or by a judicial sale carried on before the court of session. Apprising, or comprising,

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was the sentence of a sheriff, or of a messenger who was specially constituted sheriff for that purpose, by which the heritable rights belonging to the debtor were sold for payment of the debt due to the appriser; so that apprisings were, by their original constitution, proper sales of the debtor's lands to any purchaser who offered. If no purchaser could be found, the sheriff was to apprise or tax the value of the lands by an inquest (whence came the name of *apprising*), and to make over to the creditor lands to the value of the debt. A full history of apprisings will be found in the beginning of Mr Erskine's large *Institute* under this title; it being considered as unnecessary to enter into a deduction now no longer necessary, as by the act 1672 adjudications were substituted in their place.

2. That creditors may have access to affect the estate of their deceased debtor, though the heir should stand off from entering, it is made lawful (by 1540, c. 106.) for any creditor to charge the heir of his debtor to enter to his ancestor (year and day being past after the ancestor's death), within 40 days after the charge; and if the heir fails, the creditor may proceed to apprise his debtor's lands, as if the heir had been entered. Custom has so explained this statute, that the creditor may charge the heir, immediately after the death of his ancestor, provided that the summons which is to be founded on the charge be not raised till after the expiry both of the year and of the 40 days next ensuing the year, within which the heir is charged to enter. But this statute relates only to such charges on which apprising is to be led against the ancestor's lands; for, in those which are to be barely the foundation of a common summons or process against the heir, action will be sustained if the year be elapsed from the ancestor's death before the execution of the summons, though the 40 days should not be also expired. Though the statute authorises such charges against majors only, practice has also extended it against minors, and the rule is extended to the case where the heir is the debtor. One must, in this matter, distinguish between a general and a special charge. A general charge serves only to fix the representation of the heir who is charged, so as to make the debt his which was formerly his ancestor's: but a special charge makes up for the want of a service (N^o clxxx. 25.); and states the heir, *fictione juris*, in the right of the subjects to which he is charged to enter. Where, therefore, the heir is the debtor, a general charge for fixing the representation against him is unnecessary, since the only concern of the creditor is, that his debtor make up titles to the ancestor's estate, which is done by a special charge: but where the deceased was the debtor, the creditor must first charge his heir to enter in general, that it may be known whether he is to represent the debtor: if he does not enter within forty days, the debt may be fixed against him by a decree of constitution; after which, the heritable rights belonging to the ancestor will fall to be attached; in doing which, the diligence to be used is different, according to the state of the titles in the ancestor's person: for if the ancestor stood vested by infestment, the heir must be charged to enter heir in special; but if the ancestor had but a personal right to the subjects (*i. e.* not perfected by *seisin*), which would have been carried to the heir by a general service, then what is called a *general special charge* must be given to the heir. These charges, ei-

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Adjudica-
tions.

ther special or general special, as the circumstances of the case may require, are by the statute 1540 made equivalent to the heir's actual entry; and therefore an adjudication led after the *inducia* of the charges are elapsed, effectually carries to the creditor the subjects to which the heir was charged to enter.

3. Apprisings in course of time underwent many changes in their form and effect, till at length, by act 1672, c. 19. adjudications were substituted in their place, and are carried on by way of action before the court of session. By that statute, such part of the debtor's lands is to be adjudged as is equivalent to the principal sum and interest of the debt, with the composition due to the superior and expences of infestment, and a fifth part more in respect the creditor is obliged to take land for his money. The debtor must deliver to the creditor a valid right of the lands to be adjudged, or transumps thereof, renounce the possession in his favour, and ratify the decree of adjudication: and law considers the rent of the lands as precisely commensurated to the interest of the debt; so that the adjudger lies under no obligation to account for the surplus rents. In this, which is called a *special adjudication*, the legal, or time within which the debtor may redeem, is declared to be five years; and the creditor attaining possession upon it can use no farther execution against the debtor, unless the lands be evicted from him.

4. Where the debtor does not produce a sufficient right to the lands, or is not willing to renounce the possession, and ratify the decree (which is the case that has most frequently happened), the statute makes it lawful for the creditor to adjudge all right belonging to the debtor in the same manner, and under the same reversion of ten years, as he could, by the former laws, have apprised it. In this last kind, which is called a *general adjudication*, the creditor must limit his claim to the principal sum, interest, and penalty, without demanding a fifth part more. But no general adjudication can be insisted on, without libelling in the summons the other alternative of a special adjudication; for special adjudications are introduced by the statute in the place of apprisings; and it is only where the debtor refuses to comply with the terms thereof, that the creditor can lead a general adjudication.

5. Abbreviates are ordained to be made of all adjudications, which must be recorded within 60 days after the date of the decree. In every other respect, general adjudications have the same effects that apprisings had: adjudgers in possession are accountable for the surplus rents; a citation in adjudications renders the subject litigious; superiors are obliged to enter adjudgers; the legal of adjudications does not expire during the debtor's minority, &c. Only it may be observed, that though apprisings could not proceed before the term of payment, yet where the debtor is *vergens ad inopiam*, the court *ex nobili officio* admit adjudication for the debt before it be payable. But this sort being founded solely in equity, subsists merely as a security, and cannot carry the property to the creditor by the lapse of any length of time.

6. There are two kinds of adjudication, which took place at the same time with apprisings, and still obtain; viz. adjudications on a decree *cognitionis causa*, otherwise called *contra hereditatem jacentem*; and adjudications *in implement*. Where the debtor's apparent

heir, who is charged to enter, formally renounces the succession, the creditor may obtain a decree *cognitionis causa*; in which, though the heir renouncing is cited for the sake of form, no sentence condemnatory can be pronounced against him, in respect of his renunciation; the only effect of it is to subject the *hereditas jacentis* to the creditor's diligence.

7. Adjudications *contra hereditatem jacentem*, carry not only the lands themselves that belonged to the deceased, but the rents thereof fallen due since his death; for these, as an accessory to the estate belonging to the deceased, would have descended to the heir if he had entered, which rule is applied to all adjudications led on a special charge. This sort of adjudication is declared redeemable within seven years, by any co-adjudging creditor, either of the deceased debtor or of the heir renouncing. The heir himself, who renounces, cannot be restored against his renunciation, nor consequently redeem, if he be not a minor. But even a major may redeem indirectly, by granting a simulate bond to a confident person; the adjudication upon which, when conveyed to himself, is a good title to redeem all other adjudications against the lands belonging to his ancestor.

8. Adjudications *in implement* are deduced against those who have granted deeds without procuratory of resignation or precept of seisin, and refuse to divest themselves; to the end that the subject conveyed may be effectually vested in the grantee. These adjudications may be also directed against the heir of the granter, upon a charge to enter. Here there is no place for a legal reversion; for, as the adjudication is led for completing the right of a special subject, it must carry that subject as irredeemably as if the right had been voluntarily completed.

9. All adjudications led within year and day of that one which has been made first effectual by seisin (where seisin is necessary), or exact diligence for obtaining seisin, are preferable *pari passu*. The year and day runs from the date of the adjudication, and not of the seisin or diligence, for obtaining it. After the days of that period, they are preferable according to their dates. All the co-adjudgers within the year are preferable *pari passu*, as if one adjudication had been led for all their debts. This makes the seisin or diligence on the first adjudication a common right to the rest, who must therefore refund to the owner of that diligence his whole expence laid out in carrying on and completing it. And though that first adjudication should be redeemed, the diligence upon it still subsists as to the rest. This *pari passu* preference, however, does not destroy the legal preference of adjudications led on *debita fundi* (see N° clxix. 15.); nor does it take place in adjudications in implement.

A new sort of adjudication has been lately introduced into the law of Scotland by the act of the 23d Geo. III. for rendering the payment of the creditors of insolvent debtors more equal and expeditious. Among the many other provisos in that statute for expediting the payment of creditors, and lessening the expence of diligence against the debtor's estate, it is enacted, That upon an order from the court of session or lord ordinary, the bankrupt shall be bound to execute a disposition or dispositions, making over to the trustee or trustees chosen by the creditors the whole estate real and personal, wherever situated; and in case

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of the bankrupt's refusal, or of the order not being complied with from any other reason, the court or the lord ordinary shall, upon the application of the trustee, issue an act or decree, adjudging the property of the whole sequestrated estate to be in the trustee for behoof of the creditors; which shall have the same effect as if the bankrupt had executed the conveyance: and by a subsequent clause in the statute, it is enacted, that this disposition of the heritable estate, together with the order of the court or lord ordinary on which it proceeds, or, failing thereof, the decree of adjudication of the court or the lord ordinary, shall within 60 days of the date thereof be registered in the register of abbreviates of adjudications; and shall have the effect to intitle the trustee for behoof of the whole creditors to rank in the same manner upon the heritable estate as if it had been a proper decree of adjudication, obtained at the date of the interlocutor awarding the sequestration; accumulating the whole debts, principal and interest, as at that period, and adjudging for security or payment thereof, so as to rank *pari passu* with any prior effectual adjudication, and within year and day of the same. By this act also, in order to lessen the number of adjudications, and consequently the expence upon a bankrupt estate, it is declared, that intimation shall be made of the first adjudication which is called, so as all creditors who are in readiness may, within such a reasonable time as may be allowed, not exceeding twenty federunt days, produce their grounds of debt, and be conjoined in the decree to follow on said first adjudication. At the same time it may be proper to mention, that this act is only temporary; and after eight years experience, will probably suffer very considerable alterations, when it shall become necessary to digest another bankrupt law for Scotland.

Sequestra-
tion.

10. Before treating of judicial sales of bankrupts estates, the nature of *sequestration* may be shortly explained, which is a diligence that generally ushers in actions of sale. Sequestration of lands is a judicial act of the court of session, whereby the management of an estate is put into the hands of a factor or steward named by the court, who gives security, and is to be accountable for the rents to all having interest. This diligence is competent, either where the right of the lands is doubtful, if it be applied for before either of the competitors has attained possession, or where the estate is heavily charged with debts: but, as it is an unfavourable diligence, it is not admitted, unless that measure shall appear necessary for the security of creditors. Subjects not brought before the court by the diligence of creditors, cannot fall under sequestration; for it is the competition of creditors which alone founds the jurisdiction of the court to take the disputed subject into their possession.

11. The court of session who decrees the sequestration has the nomination of the factor, in which they are directed by the recommendation of the creditors. A factor appointed by the session, though the proprietor had not been infeft in the lands, has a power to remove tenants. Judicial factors must, within six months after extracting their factory, make up a rental of the estate, and a list of the arrears due by tenants, to be put into the hands of the clerk of the process, as a charge against themselves, and a note of such alterations in the rental as may afterwards happen; and must

also deliver to the clerk annually a scheme of their accounts, charge and discharge, under heavy penalties. They are, by the nature of their office, bound to the same degree of diligence that a prudent man adhibits in his own affairs; they are accountable for the interest of the rents, which they either have, or by diligence might have recovered, from a year after their falling due. As it is much in the power of those factors to take advantage of the necessities of creditors, by purchasing their debts at an undervalue, all such purchases made either by the factor himself, or to his behoof, are declared equivalent to an acquittance or extinction of the debt. No factor can warrantably pay to any creditor, without an order of the court of session; for he is, by the tenor of his commission, directed to pay the rents to those who shall be found to have the best right to them. Judicial factors are intitled to a salary, which is generally stated at five *per cent.* of their intromissions: but it is seldom ascertained till their office expires, or till their accounting; that the court may modify a greater or smaller salary, or none, in proportion to the factor's integrity and diligence. Many cases occur, where the court of session, without sequestration, name a factor to preserve the rents from perishing; *e. g.* where an heir is deliberating whether to enter, where a minor is without tutors, where a succession opens to a person residing abroad; in all which cases the factor is subjected to the rules laid down in act of federunt, Feb. 13. 1730.

As to sequestrations under the bankrupt act before recited, the reader must necessarily be referred to the act itself; for being only temporary, as before mentioned, it seems quite inconsistent with the plan of this work to enter into a minute detail of the different regulations thereby laid down in cases of sequestration under it.

12. The word *bankrupt* is sometimes applied to persons whose funds are not sufficient for their debts; and sometimes, not to the debtor, but to his estate. The court of session are empowered, at the suit of any real creditor, to try the value of a bankrupt's estate, and sell it for the payment of his debts.

13. No process of sale, at the suit of a creditor, can proceed without a proof of the debtor's bankruptcy, or at least that his lands are so charged with debts that no prudent persons will buy from him; and therefore the summons of sale must comprehend the debtor's whole estate. The debtor, or his apparent heir, and all the real creditors in possession, must be made parties to the suit; but it is sufficient if the other creditors be called by an edictal citation. The summons of sale contains a conclusion of ranking or preference of the bankrupt's creditors. In this ranking, first and second terms are assigned to the whole creditors for exhibiting in court (or producing) their rights and diligences; and the decree of certification proceeding thereupon, against the writings not produced, has the same effect in favour of the creditors who have produced their rights, as if that decree had proceeded upon an action of reduction-improbation. See N^o clxxxiii. 3. By the late bankrupt act, the sale may precede the ranking of the creditors, unless the court, upon application of the creditors, or any of them, shall find sufficient cause to delay the sale. The irredeemable property of the lands is adjudged by the court to the highest of-

Law of
Scotland.Sale of
bankrupt
estates.Ranking of
creditors.

ferer at the sale. The creditors receiving payment must grant to the purchaser absolute warrandice, to the extent of the sum received by them; and the lands purchased are declared disburdened of all debts or deeds of the bankrupt, or his ancestors, either on payment of the price by the purchaser to the creditors according to their preference, or on consignation of it. By the act 1695, purchasers were bound to consign the price in the hands of the magistrates of Edinburgh; but by § 5. of the above act, they may consign it in the royal bank or bank of Scotland. The only remedy provided to such creditors as judge themselves hurt by the sale or division of the price, even though they should be minors, is an action for recovering their share of the price against the creditors who have received it.

14. The expence of these processes is debursed by the factor out of the rents in his hands; by which the whole burden of such expence falls upon the posterior creditors.

15. Apparent heirs are intitled to bring actions of sale of the estates belonging to their ancestors, whether bankrupt or not; the expence of which ought to fall upon the pursuer, if there is any excrescence of the price, after payment of the creditors; but if there be no excrescence, the creditors, who alone are gainers by the sale, ought to bear the charge of it.

16. As processes of ranking and sale are designed for the common interest of all the creditors, no diligence carried on or completed during their pendency ought to give any preference in the competition; *pendente lite, nihil innovandum*.

17. It is a rule in all real diligences, that where a creditor is preferable on several different subjects, he cannot use his preference arbitrarily, by favouring one creditor more than another; but must allocate his universal or catholic debt proportionally against all the subjects or parties whom it affects. If it is material to such creditor to draw his whole payment out of any one fund, he may apply his debt so as may best secure himself: but that inequality will be rectified as to the posterior creditors, who had likewise, by their rights and diligences, affected the subjects out of which he drew his payment, by obliging him to assign in their favour his right upon the separate subjects which he did not use in the ranking; by which they may recur against these separate subjects for the shares which the debt preferred might have drawn out of them. As the obligation to assign is founded merely in equity, the catholic creditor cannot be compelled to it, if his assigning shall weaken the preference of any separate debt vested in himself, affecting the special subject sought to be assigned. But if a creditor upon a special subject shall acquire from another a catholic right, or a catholic creditor shall purchase a debt affecting a special subject, with a view of creating to the special debt a higher degree of preference than was naturally due to it, by an arbitrary application of the catholic debt, equity cannot protect him from assigning in favour of the creditor excluded by such application, especially if, prior to the purchase, the subject has become litigious by the process of ranking.

II. MOVEABLE RIGHTS.

THE law of heritable rights being explained, *Move-*

able Rights fall next to be considered; the doctrine of which depends chiefly on the nature of Obligations.

SECT. XIII. *Of obligations and contracts in general.*

AN obligation is a legal tie, by which one is bound to pay or perform something to another. Every obligation on the person obliged implies an opposite right in the creditor, so that what is a burden in regard to the one is right with respect to the other; and all rights founded on obligation are called *personal*. There is this essential difference between a real and a personal right, that a *jus in re*, whether of property, or of an inferior kind, as servitude, intitles the person vested with it to possess the subject as his own; or if he is not in possession, to demand it from the possessors: whereas the creditor in a personal right has only *jus ad rem*, or a right to compel the debtor to fulfil his obligation; without any right in the subject itself, which the debtor is bound to transfer to him. One cannot oblige himself, but by a present act of the will. A bare resolution, therefore, or purpose, to be obliged, is alterable at pleasure.

2. Obligations are either, (1.) Merely natural, where one person is bound to another by the law of nature, but cannot be compelled by any civil action to the performance. Thus, though deeds granted by a minor having curators, without their consent, are null, yet the minor is naturally obliged to perform such deeds; and parents are naturally obliged to provide their children in reasonable patrimonies. Natural obligations intitle the creditor to retain what he has got in virtue thereof, without being subjected to restore it. (2.) Obligations are merely civil, which may be sued upon by an action, but are elided by an exception in equity; this is the case of obligations granted through force or fear, &c. (3.) Proper or full obligations, are those which are supported both by equity and the civil sanction.

3. Obligations may be also divided into, (1.) Pure, to which neither day nor condition is adjected. These may be exacted immediately. (2.) Obligations (*ex die*), which have a day adjected to their performance. In these, *dies statim cedit, sed non venit*; a proper debt arises from the date of the obligation, because it is certain that the day will exist; but the execution is suspended till the lapse of that day. (3.) Conditional obligations; in which there is no proper debt (*dies non cedit*) till the condition be purified, because it is possible the condition may never exist; and which therefore are said to create only the hope of a debt; but the granter, even of these, has no right to refile. An obligation, to which a day is adjected that possibly may never exist, implies a condition; *dies incertus pro conditione habetur*. Thus, in the case of a provision to a child, payable when he attains to the age of fourteen, if the child dies before that age, the provision falls.

4. Obligations, when considered with regard to their cause, were divided by the Romans, into those arising from contract, quasi contract, delict, and quasi delict: but there are certain obligations, even full and proper ones, which cannot be derived from any of these sources, and to which Lord Stair gives the name of *obediential*. Such as the obligation on parents to aliment or maintain their children; which arises singly from the relation

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tion of parent and child, and may be enforced by the civil magistrate. Under parents are comprehended, the mother, grandfather, and grandmother, in their proper order. This obligation on parents extends to the providing of their issue in all the necessities of life, and giving them suitable education. It ceases, when the children can earn a livelihood by their own industry; but the obligation on parents to maintain their indigent children, and reciprocally on children to maintain their indigent parents, is perpetual. This obligation is, on the father's death, transferred to the eldest son, the heir of the family; who, as representing the father, must aliment his younger brothers and sisters: the brothers are only intitled to alimony, till their age of twenty-one, after which they are presumed able to do for themselves; but the obligation to maintain the sisters continues till their marriage. In persons of lower rank, the obligation to aliment the sisters ceases after they are capable of subsisting by any service or employment.

5. All obligations, arising from the natural duty of restitution, fall under this class; thus, things given upon the view of a certain event, must be restored, if that event does not afterwards exist: thus also, things given *ob turpem causam*, where the turpitude is in the receiver and not in the giver, must be restored. And on the same principle, one upon whose ground a house is built or repaired by another, is obliged, without any covenant, to restore the expence laid out upon it, in so far as it has been profitable to him.

Contracts.

6. A contract is the voluntary agreement of two or more persons, whereby something is to be given or performed upon one part, for a valuable consideration, either present or future, on the other part. Consent, which is implied in agreement, is excluded, (1.) By error in the essentials of the contract; for, in such case, the party does not properly contract, but errs or is deceived; and this may be also applied to contracts which take their rise from fraud or imposition. (2.) Consent is excluded by such a degree of restraint upon any of the contracting parties, as extorts the agreement; for where violence or threatening are used against a person, his will has really no part in the contract.

Loan.

7. Loan, or *mutuum*, is that contract which obliges a person, who has borrowed any fungible subject from another, to restore to him as much of the same kind, and of equal goodness. Whatever receives its estimation in number, weight, or measure, is a fungible; as corn, wine, current coin, &c. The only proper subjects of this contract are things which cannot be used without either their extinction or alienation: hence the property of the thing lent is necessarily transferred by delivery to the borrower, who consequently must run all the hazards either of its deterioration or its perishing, according to the rule, *res perit suo domino*. Where the borrower neglects to restore at the time and place agreed on, the estimation of the thing lent must be made according to its price at that time and in that place; because it would have been worth so much to the lender, if the obligation had been duly performed. If there is no place nor time stipulated for, the value is to be stated according to the price that the commodity gave when and where it was demanded. In the loan of money, the value put on it by public authority, and not its intrinsic worth, is to be considered,

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This contract is one of those called by the Romans *unilateral*, being obligatory only on one part; for the lender is subjected to no obligation: the only action therefore that it produces, is pointed against the borrower, that he may restore as much in quantity and quality as he borrowed, together with the damage the lender may have suffered through default of due performance.

8. Commodate is a species of loan, gratuitous on the part of the lender, where the thing lent may be used, date, without either its perishing or its alienation. Hence, in this sort of loan, the property continues with the lender: the only right the borrower acquires in the subject is its use, after which he must restore the individual thing that he borrowed: consequently, if the subject perishes, it perishes to the lender, unless it has perished by the borrower's fault. What degree of fault or negligence makes either of the contracting parties liable to the other in damages, is comprehended under the following rules. Where the contract gives a mutual benefit to both parties, each contractor is bound to adhibit a middle sort of diligence, such as a man of ordinary prudence uses in his affairs. Where only one of the parties has benefit by the contract, that party must use exact diligence; and the other who has no advantage by it, is accountable only for dolo, or for gross omissions, which the law construes to be dolo. Where one employs less care on the subject of any contract which implies an exuberant trust, than he is known to employ in his own affairs, it is considered as dolo.

9. Hence it will appear that this is a *bilateral* contract; the borrower must be exactly careful of the thing lent, and restore it at the time fixed by the contract, or after that use is made of it for which it was lent: if he puts it to any other use, or neglects to restore it at the time covenanted, and if the thing perishes thereafter, even by mere accident, he is bound to pay the value. On the other part, the lender is obliged to restore to the borrower such of the expences debursed by him on that subject as arose from any uncommon accident, but not those that naturally attend the use of it. Where a thing is lent gratuitously, without specifying any time of redelivery, it constitutes the contract of *precarium*, which is revocable at the lender's pleasure, and, being entered into from a personal regard to the borrower, ceases by his death.

10. Deposition is also a *bilateral* contract, by which one who has the custody of a thing committed to him (the depositary) is obliged to restore it to the depositor. If a reward is bargained for by the depositary for his care, it resolves into the contract of location. As this contract is gratuitous, the depositary is only answerable for the consequences of gross neglect; but after the deposit is redemanded, he is accountable even for casual misfortunes. He is intitled to a full indemnification for the losses he has sustained by the contract, and to the recovery of all sums expended by him on the subject.

Depositor.

11. An obligation arises without formal paction, barely by a traveller's entering into an inn, ship, or stable, and there depositing his goods, or putting up his horses; whereby the innkeeper, shipmaster, or stabler, is accountable, not only for his own facts and those of his servants (which is an obligation implied in the very exercise of these employments), but of the other guests or passengers; and, indeed, in every case, unless where.

Nauta, car-
pones, stabu-
larii.

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Scotland.Law of
Scotland.

where the goods have been lost *damno fatali*, or carried off by pirates or house-breakers. Not only the masters of ships, but their employers, are liable each of them for the share that he has in the ship; but by the present custom of trading nations, the goods brought into a ship must have been delivered to the master or mate, or entered into the ship-books. Carriers fall within the intendment of this law; and practice has extended it to vintners within borough. The extent of the damage sustained by the party may be proved by his own oath *in litem*.

Sequestra-
tion.

12. Sequestration, whether voluntarily consented to by the parties, or authorised by the judge, is a kind of deposit; but as the office of sequestree, to whose care the subject in dispute is committed, is not considered as gratuitous, he cannot throw it up at pleasure, as a common depositary may do; and he is liable in the middle degree of diligence. Confignation of money is also a deposit. It may be made, either where the debt is called in question by the debtor, as in suspensions; or where the creditor refuses to receive his money, as in wadsets, &c. The risk of the configned money lies on the configner, where he ought to have made payment, and not confignation; or has configned only a part; or has chosen for confignatory, a person neither named by the parties nor of good credit. The charger, or other creditor, runs the risk, if he has charged for sums not due, or has without good reason refused payment, by which refusal the confignation became necessary. It is the office of a confignatory, to keep the money in safe custody till it be called for: if therefore he puts it out at interest, he must run the hazard of the debtor's insolvency; but, for the same reason, though he should draw interest for it, he is liable in none to the configner.

Configna-
tion.

Pledge.

13. Pledge, when opposed to wadset, is a contract, by which a debtor puts into the hands of his creditor a special moveable subject in security of the debt, to be redelivered on payment. Where a security is established by law to the creditor, upon a subject which continues in the debtor's possession, it has the special name of an hypothec. Tradesmen and ship-carpenters have an hypothec on the house or ship repaired, for the materials and other charges of reparation; but not for the expence of building a new ship. This, however, must not now be understood to apply universally; for the court of session, in different cases which lately occurred before them, and founding upon the law and practice of England in similar cases, have found, that no hypothec exists for the expence of repairs done in a home port. Owners of ships have an hypothec on the cargo for the freight; heritors on the fruits of the ground; and landlords on the *invecta et illata*, for their rents. Writers also, and agents, have a right of hypothec, or more properly of retention, in their constituent's writings, for their claim of pains and debursements. A creditor cannot, for his own payment, sell the subject impignorated, without applying to the judge-ordinary for a warrant to put it up to public sale or roup; and to this application the debtor ought to be made a party.

Hypothec.

clxiv.

Verbal
agreement.SECT. XIV. *Of Obligations by word or writ.*

THE appellation of *verbal* may be applied to all

obligations to the constitution of which writing is not essential, which includes both real and consensual contracts; but as these are explained under separate titles, obligations *by word*, in the sense of this rubric, must be restricted, either to promises, or to such verbal agreements as have no special name to distinguish them. Agreement implies, the intervention of two different parties, who come under mutual obligations to one another. Where nothing is to be given or performed but on one part, it is properly called a *promise*; which, as it is gratuitous, does not require the acceptance of him to whom the promise is made. An offer, which must be distinguished from a promise, implies something to be done by the other party; and consequently is not binding on the offerer, till it be accepted, with its limitations or conditions, by him to whom the offer is made; after which, it becomes a proper agreement.

2. Writing must necessarily intervene in all obligations and bargains concerning heritable subjects, tho' they should be only temporary; as tacks, which, when they are verbal, last but for one year. In these, no verbal agreement is binding, though it should be referred to the oath of the party; for, till writing is adhibited, law gives both parties a right to refile, as from an unfinished bargain; which is called *locus penitentiae*. If, upon a verbal bargain of lands, part of the price shall be paid by him who was to purchase, the *interventus rei*, the actual payment of money, creates a valid obligation, and gives a beginning to the contract of sale: and, in general, where-ever matters are no longer entire, the right to refile seems to be excluded. An agreement, whereby a real right is passed from, or restricted, called *pactum liberatorium*, may be perfected verbally; for freedom is favourable, and the purpose of such agreement is rather to dissolve than to create an obligation. Writing is also essential to bargains made under condition that they shall be reduced into writing; for in such cases, it is *pars contractus*, that, till writing be adhibited, both parties shall have liberty to withdraw. In the same manner, verbal or nuncupative testaments are rejected by our law; but verbal legacies are sustained, where they do not exceed L. 100 Scots.

Writing.

3. Anciently, when writing was little used, deeds were executed by the party, appending his seal to them in presence of witnesses. For preventing frauds that might happen by appending seals to false deeds, the subscription also of the granter was afterwards required, and, if he could not write, that of a notary. As it might be of dangerous consequences to give full force to the subscription of the parties by initials, which is more easily counterfeited; our practice, in order to sustain such subscription, seems to require a proof, not only that the granter used to subscribe in that way, but that *de facto* he had subscribed the deed in question; at least, such proof is required, if the instrumentary witnesses be still alive.

Solemnities
of written
obligations.

4. As a further check, it was afterwards provided, that all writings carrying any heritable right, and other deeds of importance, be subscribed by the principal parties, if they can subscribe; otherwise, by two notaries, before four witnesses specially designed. The subsequent practice extended this requisite of the designation of the witnesses to the case where the parties themselves subscribed. Custom has construed obligations for

sums

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sums exceeding L. 100 Scots, to be obligations of importance. In a divisible obligation, *ex. gr.* for a sum of money, though exceeding L. 100, the subscription of one notary is sufficient, if the creditor restricts his claim to L. 100: But in an obligation indivisible, *e. g.* for the performance of a fact, if it be not subscribed in terms of the statute, it is void. When notaries thus attest a deed, the attestation or docquet must specially express that the granter gave them a mandate to sign; nor is it sufficient that this be mentioned in the body of the writing.

5. In every deed, the name of him who writes it, with his dwelling-place, or other mark of distinction, must be inserted. The witnesses must both subscribe as witnesses, and their names and designations be inserted in the body of the deed: And all subscribing witnesses must know the granter, and either see him subscribe, or hear him acknowledge his subscription; otherwise they are declared punishable as accessory to forgery. Deeds, decrees, and other securities, consisting of more than one sheet, may be written by way of book, in place of the former custom of pasting together the several sheets, and signing the joinings on the margin; provided each page be signed by the granter, and marked by its number, and the testing clause express the number of pages.

Solemnities
of notarial
instruments
&c.

6. Instruments of seisin are valid, if subscribed by one notary, before a reasonable number of witnesses; which is extended by practice to instruments of resignation. Two witnesses are deemed a reasonable number to every deed that can be executed by one notary. It is not necessary that the witnesses to a notarial instrument or execution see the notary or messenger sign; for they are called as witnesses to the transaction which is attested, and not to the subscription of the person attesting.

7. A new requisite has been added to certain deeds since the union, for the benefit of the revenue: They must be executed on stamped paper, or parchment, paying a certain duty to the crown. These duties must all be paid before wrote upon, under a penalty; but they are so numerous and complex, that it would be tedious, even if it fell under our plan, to enter into an enumeration of them. They will be found at length in Swinton's Abridgement, *voce Stamps*, to which the reader is referred. Certain judicial deeds, such as bail-bonds, bonds of cautionry, in suspensions, &c. are excepted, and do not require stamps, as will be seen from the several acts referred to by the compiler of the above abridgement of the statutes.

Blank-
bonds.

8. The granter's name and designation are essential, not properly as solemnities, but because no writing can have effect without them. Bonds were, by our ancient practice, frequently executed without filling up the creditor's name; and they passed from hand to hand, like notes payable to the bearer: But as there was no method for the creditor of a person possessed of these to secure them for his payment, all writings taken blank in the creditor's name are declared null, as covers to fraud; with the exception of indorsations of bills of exchange.

Privileged
deeds.

9. Certain privileged writings do not require the ordinary solemnities. 1. Holograph deeds (written by the granter himself) are effectual without witnesses. The date of no holograph writing, except a bill of ex-

change (see next parag.), can be proved by the granter's own assertion, in prejudice either of his heir or his creditors, but must be supported by other adminicles. 2. Testaments, if executed where men of skill and business cannot be had, are valid though they should not be quite formal; and let the subject of a testament be ever so valuable, one notary signing for the testator, before two witnesses, is in practice sufficient. Clergymen were frequently notaries before the reformation; and, though they were afterwards prohibited to act as notaries, the case of testaments is excepted; so that these are supported by the attestation of one minister, with two witnesses. 3. Discharges to tenants are sustained without witnesses, from their presumed rusticity, or ignorance in business. 4. Mistle letters *in re mercatoria*, commissions, and fitted accounts in the course of trade, and bills of exchange, though they are not holograph, are, from the favour of commerce, sustained without the ordinary solemnities.

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10. A bill of exchange is an obligation in the form of a mandate, whereby the drawer or mandant defines him to whom it is directed, to pay a certain sum, at the day and place therein mentioned, to a third party. Bills of exchange are drawn by a person in one country to his correspondent in another; and they have that name, because it is the exchange, or the value of money in one place compared with its value in another, that generally determines the precise extent of the sum contained in the draught. The creditor in the bill is sometimes called the possessor, or *porteur*. As parties to bills are of different countries, questions concerning them ought to be determined by the received custom of trading nations, unless where special statute interposes. For this reason, bills of exchange, though their form admits not of witnesses, yet prove their own dates, in questions either with the heir or creditors of the debtor; but this doctrine is not extended to inland bills payable to the drawer himself.

Bills of ex-
change.

11. A bill is valid, without the designation either of the drawer or of the person to whom it is made payable: It is enough, that the drawer's subscription appears to be truly his; and one's being possessor of a bill marks him out to be the creditor, if he bears the name given in the bill to the creditor: Nay, though the person drawn on should not be designed, his acceptance presumes that it was he whom the drawer had in his eye. Bills drawn blank, in the creditor's name, fall under the statutory nullity; for though indorsations of bills are excepted from it, bills themselves are not. Not only the person drawn upon must sign his acceptance, but the drawer must sign his draught, before any obligation can be formed against the acceptor: Yet it is sufficient in practice, that the drawer signs before the bill be produced in judgment; though it should be after the death both of the creditor and acceptor. A creditor in a bill may transmit it to another by indorsation, though the bill should not bear *to his order*; by the same rule that other rights are transmissible by assignation, though they do not bear *to assignees*.

Their so-
lemnities,
and obli-
gations.

12. The drawer, by signing his draught, becomes liable for the value to the creditor in the bill, in case the person drawn upon either does not accept, or after acceptance does not pay; for he is presumed to have received value from the creditor at giving him the draught, though it should not bear *for value received*: But, if the

Obligations

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the drawer was debtor to the creditor in the bill before the draught, the bill is presumed to be given towards payment of the debt, unless it expressly bears *for value*. The person drawn upon, if he refuse to accept, while he has the drawer's money in his hands, is liable to him in damages. As a bill presumes value from the creditor, indorsement presumes value from the indorsee; who therefore, if he cannot obtain payment from the acceptor, has recourse against the indorser, unless the bill be indorsed in these words, *without recourse*.

13. Payment of a bill, by the acceptor, acquits both the drawer and him at the hands of the creditor: but it intitles the acceptor, if he was not the drawer's debtor, to an action of recourse against him; and, if he was, to a ground of compensation. Where the bill does not bear value in the hands of the person drawn upon, it is presumed that he is not the drawer's debtor, and consequently he has recourse against the drawer, *ex mandato*.

14. Bills, when indorsed, are considered as so many bags of money delivered to the onerous indorsee; which therefore carry right to the contents, free of all burdens that do not appear on the bills themselves. Hence, a receipt or discharge, by the original creditor, if granted on a separate paper, does not exempt the acceptor from second payment to the indorsee; hence, also, no ground of compensation competent to the acceptor against the original creditor can be pleaded against the indorsee: but, if the debtor shall prove, by the oath of the indorsee, either that the bill is indorsed to him for the indorser's own behoof, or that he paid not the full value for the indorsement, the indorsee is justly considered as but a name; and therefore all exceptions, receivable against the original creditor, will be sustained against him. A protested bill, after registration, cannot be transmitted by indorsement, but by assignation.

Negotia-
tion.

15. Bills must be negotiated by the possessor, against the person drawn upon, within a precise time, in order to preserve recourse against the drawer. In bills payable so many days after sight, the creditor has a discretionary power of fixing the payment somewhat sooner or later, as his occasions shall require. Bills payable on a day certain, need not be presented for acceptance till the day of payment, because that day can neither be prolonged nor shortened by the time of acceptance. For the same reason, the acceptance of bills, payable on a precise day, need not be dated: but, where a bill is drawn payable so many days after sight, it must; because there the term of payment depends on the date of acceptance.

Days of
grace.

16. Though bills are, in strict law, due the very day on which they are made payable, and may therefore be protested on the day thereafter; yet there are three days immediately following the day of payment, called *days of grace*, within any of which the creditor may protest the bill: but if he delay protesting till the day after the last day of grace, he loses his recourse. Where a bill is protested, either for not acceptance or not payment, the dishonour must be notified to the drawer or indorser, within three posts at farthest. This strictness of negotiation is confined to such bills as may be protested by the possessor upon the third day of grace: where, therefore, bills are indorsed after the days of

N^o 178.

grace are expired, the indorsee is left more at liberty, and does not lose his recourse, tho' he should not take a formal protest for not payment, if, within a reasonable time, he shall give the indorser notice of the acceptor's refusing to pay. Not only does the possessor, who neglects strict negotiation, lose his recourse against the drawer, where the person drawn upon becomes afterwards bankrupt; but tho' he should continue solvent: for he may in that case recover payment from the debtor, and so is not to be indulged in an unnecessary process against the drawer, which he has tacitly renounced by his negligence. Recourse is preserved against the drawer, though the bill should not be duly negotiated, if the person drawn upon was not his debtor; for there the drawer can qualify no prejudice by the neglect of diligence, and he ought not to have drawn on one who owed him nothing.

17. The privileges superadded to bills by statute are, that though, by their form, they can have no clause of registration, yet, if duly protested, they are registrable within six months after their date in case of not acceptance, or in six months after the term of payment in the case of not payment; which registration is made the foundation of summary diligence, either against the drawer or indorser in the case of not acceptance, or against the acceptor in the case of not payment. This is extended to inland bills, *i. e.* bills both drawn and made payable in Scotland. After acceptance, summary diligence lies against no other than the acceptor; the drawer and indorser must be pursued by an ordinary action. It is only the principal sum in the bill, and interest, that can be charged for summarily: the exchange, when it is not included in the draught, the re-exchange incurred by suffering the bill to be protested and returned, and the expence of diligence, must all be recovered by an ordinary action; because these are not liquid debts, and so must be previously constituted.

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18. Bills, when drawn payable at any considerable distance of time after date, are denied the privileges of bills; for bills are intended for currency, and not to lie as a security in the creditor's hands. Bills are not valid which appear *ex facie* to be donations. No extrinsic stipulation ought to be contained in a bill which deviates from the proper nature of bills: hence, a bill to which a penalty is adjoined, or with a clause of interest from the date, is null. Inland precepts drawn, not for money the medium of trade, but for fungibles, are null, as wanting writer's name and witnesses. It is not an agreed point whether promissory notes, without writer and witnesses, unless holograph, are probative.

Certain
bills not
privileged.

19. So stood the law of Scotland, in regard to bills and promissory notes, previous to the statute 12 Geo. III. By that statute, however, the law of Scotland has undergone very material alterations. They are declared to have the same privileges, and to prescribe in six years after the term of payment. Bank notes and post bills are excepted from this prescription: nor does it run during the years of the creditor's minority. Inland bills and promissory notes must be protested within the days of grace, to secure recourse; and the dishonour notified within 14 days after the protest. Summary diligence may pass not only against the acceptor, but likewise against the drawer, and all the indorsees jointly and severally; and at the instance of any indorsee,

Late alter-
ations as to
bills and
promissory
notes.

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indorsee, though the bill was not protested in his name, upon his producing a receipt or letter from the protesting indorsee. This act was in force only for seven years after 15th May 1772, and to the end of the then next session of parliament. But as it was found by experience, that it had been of great advantage to Scotland, it was made perpetual by the late act 23 Geo. III. so that it has now become a permanent part of the law of Scotland.

Solemnities
of deeds
signed in a
foreign
country.

20. As for the solemnities essential to deeds signed in a foreign country, when they come to receive execution in Scotland, it is a general rule, that no laws can be of authority beyond the dominions of the law-giver. Hence, in strictness, no deed, though perfected according to the law of the place where it is signed, can have effect in another country where different solemnities are required to a deed of that sort. But this rigour is so softened *ex comitate*, by the common consent of nations, that all personal obligations granted according to the law of that country where they are signed, are effectual every where; which obtains in obligations to convey heritage. Conveyances themselves, however, of heritable subjects, must be perfected according to the law of the country where the heritage lies, and from which it cannot be removed.

Delivery
and deposi-
tation of
deeds.

21. A writing, while the granter keeps it under his own power or his doer's, has no force; it becomes obligatory, only after it is delivered to the grantee himself, or found in the hands of a third person. As to which last, the following rules are observed. A deed found in the hands of one who is doer both for the granter and grantee, is presumed to have been put in his hands as doer for the grantee. The presumption is also for delivery, if the deed appears in the hands of one who is a stranger to both. Where a deed is deposited in the hands of a third person, the terms of depositation may be proved by the oath of the depositary, unless where they are reduced into writing. A deed appearing in the custody of the grantee himself, is considered as his absolute right; in so much that the granter is not allowed to prove that it was granted in trust, otherwise than by a written declaration signed by the trustee, or by his oath.

What deeds
effectual
without de-
livery.

22. The following deeds are effectual without delivery. (1.) Writings containing a clause dispensing with the delivery; these are of the nature of revocable deeds, where the death of the granter is equivalent to delivery, because after death there can be no revocation. (2.) Deeds in favour of children, even natural ones; for parents are the proper custodians or keepers of their children's writings. From a similar reason, post-nuptial settlements by the husband to the wife need no delivery. (3.) Rights which are not to take effect till the granter's death, or even where he reserves an interest to himself during his life; for it is presumed he holds the custody of these, merely to secure to himself such reserved interest. (4.) Deeds which the granter lay under an antecedent natural obligation to execute, *e. g.* rights granted to a cautioner for his relief. (5.) Mutual obligations, *e. g.* contracts; for every such deed, the moment it is executed, is a common evident to all the parties contractors. Lastly, the publication of a writing by registration, is equivalent to delivery.

SECT. XV. *Of obligations and contracts arising from consent, and of accessory obligations.*

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Consensual
contracts.

CONTRACTS consensual, (*i. e.* which might, by the Roman law, be perfected by sole consent, without the intervention either of things or of writing,) are *sale*, *permutation*, *location*, *society*, and *mandate*. Where the subject of any of these contracts is heritable, writing is necessary.

2. *Sale* is a contract, by which one becomes obliged to give something to another, in consideration of a certain price in current money to be paid for it. Things consisting merely in hope, may be the subject of this contract, as the draught of a net. Commodities, where their importation or use is absolutely prohibited, cannot be the subject of sale; and even in run goods, no action lies against the vender for not delivery, if the buyer knew the goods were run. So far indeed has this principle been carried, and so anxious have our judges been to put a stop to the practice of smuggling, that in different cases which have occurred of action being brought at the instance of a foreign merchant against persons resident in Scotland for payment of goods which had been smuggled, a distinction has been made betwixt the case of the foreign merchant being or not being a native of Scotland. Where the foreign merchant was a native of Scotland, it has been presumed that he was acquainted with the revenue law of the country, and that he was in a manner *versans in re illicita*; and therefore action has been denied for recovery of the price of such goods: but where, on the other hand, the foreign merchant was not a native of Scotland, no ways amenable to, and even presumed ignorant of, its laws, he has with justice been allowed action for the price of such goods, unless it were shown that he had in fact been *particeps criminis*, by aiding the smuggle. The same principle has regulated the decisions in the courts of England in cases of a similar nature, which have within these few years come before them.

3. Though this contract may be perfected before delivery of the subject, the property remains till then with the vender; (See N^o clxii. 9.) Yet till delivery, the hazard of its deterioration falls on the purchaser, because he has all the profits arising from it after the sale. On the other hand, the subject itself perishes to the vender; (1.) If it should perish through his fault, or after his undue delay to deliver it. (2.) If a subject is sold as a fungible, and not as an individual, or *corpus*, *e. g.* a quantity of farm-wheat, sold without distinguishing the parcel to be delivered from the rest of the farm. (3.) The *periculum* lies on the vender till delivery, if he be obliged by a special article in the contract to deliver the subject at a certain place.

4. *Location* is that contract where an hire is stipulated for the use of things, or for the service of persons. He who lets his work or the use of his property to hire, is the locator or lessor; and the other, the conductor or lessee. In the location of things, the lessor is obliged to deliver the subject, fitted to the use it was let for; and the lessee must preserve it carefully, put it to no other use, and, after that is over, restore it. Where a workman or artificer lets his labour, and if the work is either not performed according to contract,

Location.

or if it be insufficient, even from mere unskilfulness, he is liable to his employer in damages; for he ought not, as an artificer, to have undertaken a work to which he was not equal. A servant hired for a certain term, is intitled to his full wages, though from sickness or other accident he should be disabled for a part of his time; but if he die before the term, his wages are only due for the time he actually served. If a master dies, or without good reason turns off, before the term, a servant who eats in his house, the servant is intitled to his full wages, and to his maintenance till that term: and, on the other part, a servant who without ground deserts his service, forfeits his wages and maintenance, and is liable to his master in damages.

Society.

5. *Society* or *copartnership* is a contract, whereby the several partners agree concerning the communication of loss and gain arising from the subject of the contract. It is formed by the reciprocal choice which the partners make one of another; and so is not constituted in the case of co-heirs, or of several legatees in the same subject. A copartnership may be so constituted, that one of the partners shall, either from his sole right of property in the subject, or from his superior skill, be intitled to a certain share of the profits, without being subjected to any part of the loss; but a society, where one partner is to bear a certain proportion of loss, without being intitled to any share of the profits, called by the Romans *societas leonina*, is justly reprobated. All the partners are intitled to shares of profit and loss proportioned to their several stocks, where it is not otherwise covenanted.

6. As partners are united, from a *delectus personæ*, in a kind of brotherhood, no partner can, without a special power contained in the contract, transfer any part of his share to another. All the partners are bound *in solidum* by the obligation of any one of them, if he subscribe by the *firm* or social name of the company; unless it be a deed that falls not under the common course of administration. The company effects are the common property of the society subjected to its debts; so that no partner can claim a division thereof, even after the society is dissolved, till these are paid: and, consequently, no creditor of a partner can, by diligence, carry to himself the property of any part of the common stock, in prejudice of a company creditor: but he may, by arrestment, secure his debtor's share in the company's hands, to be made forthcoming to him at the close of the copartnership, in so far as it is not exhausted by the company debts.

7. Society being founded in the mutual confidence among the *socii*, is dissolved, not only by the renunciation, but by the death of any one of them, if it be not otherwise specially covenanted. A partner who renounces upon unfair views, or at a critical time, when his withdrawing may be fatal to the society, looses his partners from all their engagements to him, while he is bound to them for all the profits he shall make by his withdrawing, and for the loss arising thereby to the company. Not only natural, but civil death, *e. g.* arising from a sentence inflicting capital punishment, makes one incapable to perform the duties of a partner, and consequently dissolves the society. In both cases, of death and renunciation, the remaining partners may continue the copartnership, either expressly, by entering into a new contract; or tacitly, by carry-

ing on their trade as formerly. Public trading companies are now every day constituted, with rules very different from those which either obtained in the Roman law, or at this day obtain in private societies. The proprietors or partners in these, though they may transfer their shares, cannot renounce; nor does their death dissolve the company, but the share of the deceased descends to his representative.

8. A *joint trade* is not a copartnership, but a *joint trade* elementary contract, where two or more persons agree to contribute a sum, to be employed in a particular course of trade, the produce whereof is to be divided among the adventurers, according to their several shares, after the voyage is finished. If, in a joint trade, that partner who is intrusted with the money for purchasing the goods, should, in place of paying them in cash, buy them upon credit, the furnisher who followed his faith alone in the sale, has no recourse against the other adventurers; he can only recover from them what of the buyer's share is yet in their hands. Where any one of the adventurers in a joint trade becomes bankrupt, the others are preferable to his creditors, upon the common stock, as long as it continues undivided, for their relief of all the engagements entered into by them on account of the adventure.

9. *Mandate* is a contract, by which one employs another to manage any business for him; and by the Roman law, it must have been gratuitous. It may be constituted tacitly, by one's suffering another to act in a certain branch of his affairs, for a tract of time together, without challenge. The mandatory is at liberty not to accept of the mandate; and, as his powers are solely founded in the mandant's commission, he must, if he undertakes it, strictly adhere to the directions given him: Nor is it a good defence, that the method he followed was more rational; for in that his employer was the proper judge. Where no special rules are prescribed, the mandatory, if he acts prudently, is secure, whatever the success may be; and he can sue for the recovery of all the expences reasonably disbursed by him in the execution of his office.

10. Mandates may be general, containing a power of administering the mandant's whole affairs; but no mandate implies a power of disposing gratuitously of the constituent's property, nor even of selling his heritage for an adequate price: but a general mandatory may sell such of the moveables as must otherwise perish. No mandatory can, without special powers, transact doubtful claims belonging to his constituent, or refer them to arbiters.

11. Mandates expire, (1.) By the revocation of the employer, though only tacit, as if he should name another mandatory for the same business. (2.) By the renunciation of the mandatory; even after he has executed part of his commission, if his office be gratuitous. (3.) By the death, either of the mandant or mandatory: But if matters are not entire, the mandate continues in force, notwithstanding such revocation, renunciation, or death. Procuratories of resignation, and precepts of seisin, are made out in the form of mandates; but, because they are granted for the sole benefit of the mandatory, all of them, excepting precepts of *clare constat*, are declared (by act 1693) to continue after the death either of the granter or grantee. Deeds which contain a clause or mandate for registration, are for the same

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same reason made registrable after the death of either (by act 1693 and 1696.)

12. The favour of commerce has introduced a tacit mandate, by which masters of ships are empowered to contract in name of their exercitors or employers, for repairs, ship-provisions, and whatever else may be necessary for the ship or crew; so as to oblige not themselves only, but their employers. Whoever has the actual charge of the ship is deemed the master, though he should have no commission from the exercitors, or should be substituted by the master in the direction of the ship without their knowledge. Exercitors are liable, whether the master has paid his own money to a merchant for necessaries, or has borrowed money to purchase them. The furnisher or lender must prove that the ship needed repairs, provisions, &c. to such an extent; but he is under no necessity to prove the application of the money or materials to the ship's use. If there are several exercitors, they are liable *singuli in solidum*. In the same manner the undertaker of any branch of trade, manufacture, or other land negotiation, is bound by the contracts of the institors whom he sets over it, in so far as relates to the subject of the *præpositura*.

Homologation.

13. Contracts and obligations, in themselves imperfect, receive strength by the contractor or his heirs doing any act thereafter which imports an approbation of them, and consequently supplies the want of an original legal consent. This is called *homologation*; and it takes place even in deeds intrinsically null, whether the nullity arises from the want of statutory solemnities, or from the incapacity of the granter. It cannot be inferred, (1.) By the act of a person who was not in the knowledge of the original deed; for one cannot approve what he is ignorant of. (2.) Homologation has no place where the act or deed, which is pleaded as such, can be ascribed to any other cause; for an intention to come under an obligation is not presumed.

Quasi-contracts.

14. *Quasi-contracts* are formed without explicit consent, by one of the parties doing something which by its nature either obliges him to the other party, or the other party to him. Under this class may be reckoned tutory, &c. the entry of an heir, *negotiorum gestio*, *indebiti solutio*, communion of goods between two or more common proprietors, and *mercium jactus levandæ navis causa*. *Negotiorum gestio* forms those obligations which arise from the management of a person's affairs, in his absence, by another, without a mandate. As such manager acts without authority from the proprietor, he ought to be liable in exact diligence, unless he has from friendship interposed in affairs which admitted no delay; and he is accountable for his intromissions with interest. On the other part, he is intitled to the recovery of his necessary disbursements on the subject, and to be relieved of the obligations in which he may have bound himself in consequence of the management.

15. *Indebiti solutio*, or the payment to one of what is not due to him, if made through any mistake, either of fact, or even of law, founds him who made the payment in an action against the receiver for repayment (*condictio indebiti*.) This action does not lie, (1.) If the sum paid was due *ex æquitate*, or by a natural obligation: for the obligation to restore is founded solely in equity. (2.) If he who made the payment

knew that nothing was due; for *qui consulto dat quod non debebat, præsumitur donare*.

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16. Where two or more persons become common proprietors of the same subject, either by legacy, gift, or purchase, without the view of copartnership, an obligation is thereby created among the proprietors to communicate the profit and loss arising from the subject, while it remains common: And the subject may be divided at the suit of any having interest. This division, where the question is among the common proprietors, is according to the valuation of their respective properties: But where the question is between the proprietors and those having servitudes upon the property, the superficies is only divided, without prejudice to the property. Commonities belonging to the king, or to royal boroughs, are not divisible. Lands lying runrig, and belonging to different proprietors, may be divided, with the exception of borough and incorporated acres; the execution of which is committed to the judge-ordinary, or justices of the peace.

17. The throwing of goods overboard, for lightening a ship in a storm, creates an obligation, whereby the owners of the ship and goods saved are obliged to contribute for the relief of those whose goods were thrown overboard, that so all may bear a proportional loss of the goods ejected for the common safety. In this contribution, the ship's provisions suffer no estimation. A master who has cut his mast, or parted with his anchor, to save the ship, is intitled to this relief; but if he has lost them by the storm, the loss falls only on the ship and freight. If the ejection does not save the ship, the goods preserved from shipwreck are not liable in contribution. Ejection may be lawfully made, if the master and a third part of the mariners judge that measure necessary, though the owner of the goods should oppose it: and the goods ejected are to be valued at the price that the goods of the same sort which are saved shall be afterwards sold for.

18. There are certain obligations which cannot subsist by themselves, but are *accessions* to, or make a part of, other obligations. Of this sort are *fidejussio*, and the *obligation to pay interest*. *Cautionry*, or *fidejussio*, is that obligation by which one becomes engaged as security for another, that he shall either pay a sum, or perform a deed.

Accessory obligations.

19. A cautioner for a sum of money may be bound, either simply as cautioner for the principal debtor, or conjunctly and severally for and with the principal debtor. The first has, by our customs, the *beneficium ordinis*, or of discussion; by which the creditor is obliged to discuss the proper debtor, before he can insist for payment against the cautioner. Where one is bound as full debtor with and for the principal, or conjunctly and severally with him, the two obligants are bound equally in the same obligation, each *in solidum*; and consequently, the cautioner, though he is but an accessory, may be sued for the whole, without either discussing or even citing the principal debtor. Cautioners for performance of facts by another, or for the faithful discharge of an office (e. g. for factors, tutors, &c.), cannot by the nature of their engagement be bound conjunctly and severally with the principal obligant, because the fact to which the principal is bound cannot possibly be performed by any other. In such engagements, therefore, the failure must be previously

con-

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constituted against the proper debtor, before action can be brought against the cautioner for making up the loss of the party suffering.

20. The cautioner, who binds himself at the desire of the principal debtor, has an *actio mandati* or of relief against him, for recovering the principal and interest paid by himself to the creditor, and for necessary damages; which action lies *de jure*, though the creditor should not assign to him on payment. As relief against the debtor is implied in fidejussory obligations, the cautioner, where such relief is cut off, is no longer bound: hence, the defence of prescription frees the cautioner, as well as the principal debtor.

21. But, (1.) Where the cautionry is interposed to an obligation merely natural, the relief is restricted to the sums that have really turned to the debtor's profit. (2.) A cautioner who pays without citing the debtor, loses his relief, in so far as the debtor had a relevant defence against the debt, in whole or in part. Relief is not competent to the cautioner, till he either pays the debt, or is distressed for it; except, 1st, Where the debtor is expressly bound to deliver to the cautioner his obligation cancelled, against a day certain, and has failed; or, 2dly, Where the debtor is *vergens ad inopiam*; in which case the cautioner may, by proper diligence, secure the debtor's funds for his own relief, even before payment or distress.

22. A right of relief is competent *de jure* to the cautioner who pays, against his co-cautioners, unless where the cautioner appears to have renounced it. In consequence of this implied relief, a creditor, if he shall grant a discharge to any one of the cautioners, must, in demanding the debt from the others, deduct that part as to which he has cut off their relief by that discharge. Where the principal debtor, in a bond in which a cautioner is bound, grants bond of corroboration with a new cautioner, both cautioners, as they intervene for the same debt, and at the desire of the same debtor, have a mutual relief against each other; but where the cautioner in the first bond signs as a principal obligant in the corroboration, the cautioner in the new bond, it would seem, would be intitled to a total relief against the first cautioner. At same time, the decisions of the court of session are not perfectly at one upon this branch of the doctrine of cautionry.

Judicial
cautionry.

23. Cautionry is also *judicial*, as in a suspension. It is sufficient to loose the cautioner, that when he became bound, the suspender had good reason to suspend, *e. g.* if the charger had at that period no title, or had not then performed his part, though these grounds of suspension should be afterwards taken off. In all maritime causes, where the parties are frequently foreigners, the defender must give caution *judicio fisci et judicatum solvi*: such cautioner gets free by the death of the defender before sentence; but he continues bound, though the cause should be carried from the admiral to the court of session. This sort of caution is only to be exacted in causes strictly maritime.

24. It happens frequently, that a creditor takes two or more obligants bound to him, all as principal debtors, without fidejussion. Where they are so bound, for the performance of facts that are in themselves indivisible, they are liable each for the whole, or *singuli in solidum*. But, if the obligation be for a

sum of money, they are only liable *pro rata*; unless, (1.) Where they are in express words bound conjunctly and severally; or, (2.) In the case of bills or promissory notes. One of several obligants of this sort, who pays the whole debt, or fulfils the obligation, is intitled to a proportional relief against the rest; in such manner, that the loss must, in every case, fall equally upon all the solvent obligants.

25. Obligations for sums of money are frequently accompanied with an obligation for the annual rent or interest thereof. *Interest (usura)* is the profit due by the debtor, of a sum of money to the creditor for the use of it. The canon law considered the taking of interest as unlawful: the law of Moses allowed it to be exacted from strangers: and all the reformed nations of Europe have found it necessary, after the example of the Romans, to authorise it at certain rates fixed by statute. Soon after the reformation, our legal interest was fixed at the rate of 10 per cent. per annum; from which time it has been gradually reduced, till at last, by 12 Ann. stat. 2. c. 16. it was brought to five per cent. and has continued at that rate ever since.

Interest of
money.

26. Interest is due, either by law or by *paction*. It is due by law, either from the force of statute, under which may be included acts of sederunt, or from the nature of the transaction. Bills of exchange, and inland bills, though they should not be protested, carry interest from their date in case of not acceptance; or from the day of their falling due, in case of acceptance and not payment. Where a bill is accepted, which bears no term of payment, or which is payable on demand, no interest is due till demand be made of the sum, the legal voucher of which is a notorial protest. Interest is due by a debtor after denunciation, for all the sums contained in the diligence, even for that part which is made up of interest. Sums paid by cautioners on distress carry interest, not only as to the principal sum in the obligation, but as to the interest paid by the cautioner. Factors named by the court of session are liable for interest, by a special act of sederunt; see N^o clxxii. 11.

27. It arises *ex lege*, or from the nature of the transaction, that a purchaser in a sale is liable in interest for the price of the lands bought from the term of his entry, though the price should be arrested in his hands, or though the seller should not be able to deliver to him a sufficient progress or title to the lands; for no purchaser can in equity enjoy the fruits of the lands, while at the same time he retains the interest of the price: but lawful consignation of the price made by a purchaser, upon the refusal of the person's having right to receive it, stops the currency of interest. Where one intermeddles with money belonging to another which carries interest, he ought to restore it *cum omni obventionem et causa*; and is therefore liable in the interest of it, as being truly an accessory of the subject itself. It is also from the nature of the transaction, that interest is in certain cases allowed to merchants or others in name of damages.

28. Interest is due by *express paction*, where there is a clause in a bond or obligation, by which money is made to carry interest. An obligation is not lawful, where it is agreed on, that the yearly interest of the sum lent, if it should not be paid punctually as it falls

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falls due, shall be accumulated into a principal sum bearing interest; but an obligation may be lawfully granted, not only for the sum truly lent, but for the interest to the day at which the obligation is made payable, whereby the intermediate interest is accumulated into a principal sum from the term of payment. Interest may be also due by *implied paction*: Thus, where interest upon a debt is by a letter promised for time past, such promise implies a paction for interest as long as the debt remains unpaid; thus also, the use of payment of interest presumes a paction, and when interest is expressed for one term, it is presumed to be bargained for till payment.

General
properties
of obliga-
tion.

29. The subject-matter of all obligations consists either of *things*, or of *facts*. Things exempted from commerce cannot be the subject of obligation. (See N° clxii. 2.) One cannot be obliged to the performance of a fact naturally impossible; nor of a fact in itself immoral, for that is also in the judgment of law impossible. Since impossible obligations are null, no penalty or damage can be incurred for non performance: but it is otherwise, if the fact be in itself possible, though not in the debtor's power; in which case the rule obtains, *locum facti impræstabilis subit damnum et interesse*.

30. An obligation, to which a condition is adjoined, either naturally or morally impossible, is in the general case null; for the parties are presumed not to have been serious. But such obligation is valid, and the condition thereof held *pro non scripta*, (1.) In testaments; (2.) In obligations, to the performance of which the granter lies under a natural tie, as in bonds of provision to a child. Where an obligation is granted under a condition, lawful but unfavourable, e. g. that the creditor shall not marry without the consent of certain friends, no more weight is given to the condition than the judge thinks reasonable. A condition, which is in some degree in the power of the creditor himself, is held as fulfilled, if he has done all he could to fulfil it. Implement or performance cannot be demanded in a mutual contract, by that party who himself declines or cannot fulfil the counterpart.

Donation.

31. *Donation*, so long as the subject is not delivered to the donee, may be justly ranked among obligations; and it is that obligation which arises from the mere good will and liberality of the granter. Donations imply no warrandice, but from the future facts of the donor. They are hardly revocable by our law for ingratitude, though it should be of the grossest kind: those betwixt man and wife are revocable by the donor, even after the death of the donee; but remuneratory grants, not being truly donations, cannot be so revoked. That special sort of donation, which is constituted verbally, is called a *promise*. The Roman law intitled all donors to the *beneficium competentie*, in virtue of which they might retain such part of the donation as was necessary for their own subsistence. Our law allows this benefit to fathers, with respect to the provisions granted to their children; and to grandfathers, which is a natural consequence of children's obligation to aliment their indigent parents; but to no collateral relation, not even to brothers.

32. Donations made in contemplation of death, or

mortis causa, are of the nature of legacies, and like them revocable: consequently, not being effectual in the granter's life, they cannot compete with any of his creditors; not even with those whose debts were contracted after the donation. They are understood to be given from a personal regard to the donee, and therefore fall by his predecease. No deed, after delivery, is to be presumed a *donatio mortis causa*; for revocation is excluded by delivery.

33. Deeds are not presumed, *in dubio*, to be donations. Hence, a deed by a debtor to his creditor, if donation be not expressed, is presumed to be granted in security or satisfaction of the debt; but bonds of provision to children are, from the presumption of paternal affection, construed to be intended as an additional patrimony: yet a tocher, given to a daughter in her marriage-contract, is presumed to be in satisfaction of all former bonds and debts; because marriage-contracts usually contain the whole provisions in favour of the bride. One who alimments a person that is come of age, without an express paction for board, is presumed to have entertained him as a friend, unless in the case of those who earn their living by the entertainment or board of strangers. But alimony given to minors, who cannot bargain for themselves, is not accounted a donation; except either where it is presumed, from the near relation of the person alimmenting, that it was given *ex pietate*; or where the minor had a father or curators, with whom a bargain might have been made.

SECT. XVI. Of the dissolution or extinction of obligations.

clxxvi.

OBLIGATIONS may be dissolved by *performance* or *Extinction* implement, consent, compensation, novation, and confusion. of obligations, as, performance.

(1.) By *specific performance*: thus, an obligation for a sum of money is extinguished by payment. The creditor is not obliged to accept of payment by parts, unless where the sum is payable by different divisions. If a debtor in two or more separate bonds to the same creditor, made an indefinite payment, without ascribing it at the time to any one of the obligations, the payment is applied, 1st, To interest, or to sums not bearing interest. 2dly, To the sums that are least secured, if the debtor thereby incurs no rigorous penalty. But, 3dly, If this application be penal on the debtor, e. g. by suffering the legal of an adjudication to expire, the payment will be applied so as to save the debtor from that forfeiture. Where one of the debts is secured by a cautioner, the other not, the application is to be so made, *cæteris paribus*, that both creditor and cautioner may have equal justice done to them.

2. Payment made by the debtor upon a mistake in fact, to one whom he believed, upon probable grounds, to have the right of receiving payment, extinguishes the obligation. But payment made to one, to whom the law denies the power of receiving it, has not this effect; as if a debtor, seized by letters of caption, should make payment to the messenger; for *ignorantia juris neminem excusat*. In all debts, the debtor, if he be not interpellated, may safely pay before the term, except in tack-duties or feu-duties; the payment whereof, before the terms at which they are

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are made payable, is construed to be collusive, in a question with a creditor of the landlord or superior. Payment is *in dubio* presumed, by the voucher of the debt being in the hands of the debtor; *chirographum, apud debitorem repertum, presumitur solutum*.

By consent.

3. Obligations are extinguishable by the *consent of the creditor*, who, without full implement, or even any implement, may renounce the right constituted in his own favour. Though a discharge or acquittance granted by one whom the debtor *bona fide* took for the creditor, but who was not, extinguishes the obligation, if the satisfaction made by the debtor was real; yet where it is imaginary, the discharge will not screen him from paying to the true creditor the debt for which he had made no prior satisfaction. In all debts which are constituted by writing, the extinction, whether it be by specific performance or bare consent, must be proved, either by the oath of the creditor, or by a discharge in writing; and the same solemnities which law requires in the obligation, are necessary in the discharge: but, where payment is made, not by the debtor himself, but by the creditor's intromission with the rents of the debtor's estate, or by delivery to him of goods in name of the debtor, such delivery or intromission, being *facti*, may be proved by witnesses, though the debt should have been not only constituted by writing, but made real on the debtor's lands by adjudication.

4. A discharge, though it should be general, of all that the granter can demand, extends not to debts of an uncommon kind, which are not presumed to have been under the granter's eye. This doctrine applies also to general assignments. In annual payments, as of rents, feu-duties, interest, &c. three consecutive discharges by the creditor, of the yearly or termly duties, presume the payment of all precedings. Two discharges by the ancestor, and the third by the heir, do not infer this presumption, if the heir was ignorant of the ancestor's discharges. And discharges by an administrator, as a factor, tutor, &c. presume only the payment of all preceding duties incurred during his administration. This presumption arises from repeating the discharges thrice successively; and so does not hold in the case of two discharges, though they should include the duties of three or more terms.

By compensation.

5. Where the same person is both creditor and debtor to another, the mutual obligations, if they are for equal sums, are extinguished by *compensation*; if for unequal, still the lesser obligation is extinguished, and the greater diminished, as far as the course of debit and credit goes. To found compensation, (1.) Each of the parties must be debtor and creditor at the same time. (2.) Each of them must be debtor and creditor in his own right. (3.) The mutual debts must be of the same quality: hence, a sum of money cannot be compensated with a quantity of corns; because, till the prices are fixed, at which the corns are to be converted into money, the two debts are incommensurable. Lastly, compensation cannot be admitted, where the mutual debts are not clearly ascertained, either by a written obligation, the sentence of a judge, or the oath of the party. Where this requires but a short discussion, sentence for the pursuer is delayed for some time, *ex equitate*, that the defender may make good his ground of com-

penation. Where a debt for fungibles is ascertained in money by the sentence of a judge, the compensation can have no effect farther back than the liquidation; because, before sentence, the debts were incommensurable: but, where a debt for a sum of money is, in the course of a suit, constituted by the oath of the debtor, the compensation, after it is admitted by the judge, operates *retro*, in so far as concerns the currency of interest, to the time when, by the parties acknowledgment, the debt became due: for, in this case, the debtor's oath is not what creates the debt, or makes it liquid; it only declares that such a liquid sum was truly due before. Compensation cannot be offered after decree, either by way of suspension or reduction; unless it has been formerly pleaded, and unjustly repelled. Decrees in absence are excepted.

6. The right of *retention*, which bears a near resemblance to compensation, is chiefly competent, where the mutual debts, not being liquid, cannot be the ground of compensation; and it is sometimes admitted *ex equitate*, in liquid debts, where compensation is excluded by statute: thus, though compensation cannot be pleaded after decree, either against a creditor or his assignee; yet, if the original creditor should become bankrupt, the debtor, even after decree, may retain against the assignee, till he gives security for satisfying the debtor's claim against the cedent. This right is frequently founded in the expence disbursed or work employed on the subject retained, and so arises from the mutual obligations incumbent on the parties. It has never been disputed that retention of goods was competent, until payment or satisfaction of the debt incurred in relation to these goods; but it was found by the court of session, in a case which was very lately before them, that goods could not be retained by a manufacturer until payment of a prior debt; the debt incurred upon the goods in his hand being offered; and although the debtor had become bankrupt, and the manufacturer must otherwise rank as a common creditor for his prior debt. But retention may be sustained, though the debt due to him who claims it does not arise from the nature of the obligation by which he is debtor: thus, a factor on a land-estate may retain the sums levied by him in consequence of his factory, not only till he be paid of the disbursements made on occasion of such estate, but also till he be discharged from the separate engagements he may have entered into on his constituent's account.

7. Obligations are dissolved by *novation*, whereby one obligation is changed into another, without changing either the debtor or creditor. The first obligation being thereby extinguished, the cautioners in it are loosed, and all its consequences discharged; so that the debtor remains bound only by the last. As the creditor to whom a right is once constituted, ought not to lose it by implication, novation is not easily presumed, and the new obligation is construed to be merely corroborative of the old; but, where the second obligation expressly bears to be *in satisfaction* of the first, these words must necessarily be explained into novation. Where the creditor accepts of a new debtor, in place of the former who is discharged, this method of extinction is called *delegation*.

8. Obligations are extinguished *confusione*, where the debt is confused with the debt.

By confusion.

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debit and credit meet in the same person, either by succession or singular title, *e. g.* when the debtor succeeds to the creditor, or the creditor to the debtor, or a stranger to both; for one cannot be debtor to himself. If the succession, from which the *confusio* arises, happens afterwards to be divided, so as the debtor and creditor come again to be different persons; the *confusio* does not produce an extinction, but only a temporary suspension, of the debt.

clxxvii.

SECT. XVII. *Of Assignations.*Assigna-
tions.

HERITABLE rights, when they are clothed with investiture, are transmitted by disposition, which is a writing containing procuratory of resignation and precept of seisin; but those which either require no seisin, or on which seisin has not actually followed, are transmissible by simple *assignation*. He who grants the assignation is called the *cedent*; and he who receives it, the *assignee* or *cessionary*: if the assignee conveys his right to a third person, the deed of conveyance is called a *translation*; and if he assigns it back to the cedent, a *retrocession*. Certain rights are, from the uses to which they are destined, incapable of transmission, as alimentary rights: others cannot be assigned by the person invested in them, without special powers given to him; as tacks, reversions: the transmission of a third sort, is not presumed to be intended, without an express conveyance; as of paraphernal goods, which are so proper to the wife, that a general assignation, by her to her husband, of all that did or should belong to her at her decease, does not comprehend them. A life-right is, by its nature, incapable of a proper transmission; but its profits may be assigned, while it subsists.

Intimation
of assigna-
tions.

2. Assignations must not only be delivered to the assignee, but intimated by him to the debtor. Intimations are considered as so necessary for completing the conveyance, that in a competition between two assignations, the last, if first intimated, is preferred.

What noti-
fication is
equivalent
to intima-
tion.

3. Though, regularly, intimation to the debtor is made by an instrument, taken in the hands of a notary, by the assignee or his procurator; yet the law admits equipollencies, where the notice of the assignment given to the debtor is equally strong. Thus, a charge upon letters of horning at the assignee's instance, or a suit brought by him against the debtor, supplies the want of intimation; these being judicial acts, which expose the conveyance to the eyes both of the judge and of the debtor; or the debtor's promise of payment by writing to the assignee, because that is in effect a corroborating of the original debt. The assignee's possession of the right, by entering into payment of the rents or interest, is also equal to an intimation; for it imports, not only notice to the debtor, but his actual compliance: but the debtor's private knowledge of the assignment is not sustained as intimation.

In what
cases not
necessary.

4. Certain conveyances need no intimation. (1.) Indorsements of bills of exchange; for these are not to be fettered with forms, introduced by the laws of particular states. (2.) Bank-notes are fully conveyed by the bare delivery of them; for as they are payable to the bearer, their property must pass with their possession. (3.) Adjudication, which is a judicial conveyance, and marriage, which is a legal one, carry the full right of the subjects thereby conveyed, without

intimation: nevertheless, as there is nothing in these conveyances which can of themselves put the debtor *in mala fide*, he is therefore *in tuto* to pay to the wife, or to the original creditor in the debt adjudged, till the marriage or adjudication be notified to him. Assignments of moveable subjects, though they be intimated, if they are made *retenta possessione*, (the cedent retaining the possession), cannot hurt the cedent's creditors; for such rights are presumed, in all questions with creditors, to be collusive, and granted in trust for the cedent himself.

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5. An assignation carries to the assignee the whole right of the subject conveyed, as it was in the cedent; and consequently, he may use diligence, either in his cedent's name while he is alive, or in his own.

6. After an assignation is intimated, the debtor cannot prove a payment, or compensation, by the oath of the cedent, who has no longer any interest in the debt; unless the matter has been made litigious by an action commenced prior to the intimation: but the debtor may refer to the oath of the assignee, who is in the right of the debt, that the assignment was gratuitous, or in trust for the cedent: either of which being proved, the oath of the cedent will affect the assignee. If the assignation be in part onerous, and in part gratuitous, the cedent's oath is good against the assignee, only in so far as his right is gratuitous. All defences competent against the original creditor in a moveable debt, which can be proved otherwise than by his oath, continue relevant against even an onerous assignee; whose right can be no better than that of his author, and must therefore remain affected with all the burdens which attended it in the author's person.

SECT. XVIII. *Of arrestments and poindings.*

clxxviii.

THE diligences, whereby a creditor may affect his debtor's moveable subjects, are *arrestment* and *poinding*. By *arrestment* is sometimes meant the securing of a criminal's person till trial; but as it is understood in the rubric of this title, it is the order of a judge, by which he who is debtor in a moveable obligation to the arrester's debtor, is prohibited to make payment or delivery till the debt due to the arrester be paid or secured. The arrester's debtor is usually called the common debtor; because, where there are two or more competing creditors, he is debtor to all of them. The person in whose hands the diligence is used is styled the arrestee.

2. Arrestment may be laid on by the authority either of the supreme court, or of an inferior judge. In the first case, it proceeds either upon special letters of arrestment, or on a warrant contained in letters of horning; and it must be executed by a messenger. The warrants granted by inferior judges are called precepts of arrestment, and they are executed by the officer proper to the court. Where the debtor to the common debtor is a pupil, arrestment is properly used in the hands of the tutor, as the pupil's administrator: this doctrine may perhaps extend to other general administrators, as commissioner, &c. But arrestment, used in the hands of a factor or steward, cannot found an action of forthcoming without calling the constituent. Where the debtor to the common debtor is a corporation, arrestment must be used in the hands of the directors or

treas-

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treasurer, who represent the whole body. Arrestment, when it is used in the hands of the debtor himself, is inept; for that diligence is intended only as a restraint upon third parties.

3. All debts, in which one is personally bound, tho' they should be heritably secured, are grounds upon which the creditor may arrest the moveable estate belonging to his debtor. Arrestment may proceed on a debt, the term of payment whereof is not yet come, in case the debtor be *vergens ad inopiam*. If a debt be not yet constituted by decree or registration, the creditor may raise and execute a summons against his debtor for payment, on which pending action arrestment may be used, in the same manner as inhibition, which is called *arrestment upon a dependence*. If one's ground of credit be for the performance of a fact, or if his depending process be merely declaratory, without a conclusion of payment or delivery, such claims are not admitted to be sufficient grounds for arrestment.

What debts
arrestable.

4. Moveable debts are the proper subject of arrestment; under which are comprehended conditional debts, and even depending claims. For lessening the expence of diligence to creditors, all bonds which have not been made properly heritable by seisin are declared arrestable; but this does not extend to adjudications, wadsets, or other personal rights of lands, which are not properly debts. Certain moveable debts are not arrestable. (1.) Debts due by bill, which pass from hand to hand as bags of money. (2.) Future debts; for though inhibition extends to *adquirenda* as well as *adquisita*, yet arrestment is limited, by its warrant, to the debt due at the time of serving it against the arrestee. Hence, an arrestment of rents or interest carries only those that have already either fallen due or at least become current. Claims, depending on the issue of a suit, are not considered as future debts; for the sentence, when pronounced, has a retrospect to the period at which the claim was first founded. The like doctrine holds in conditional debts. (3.) Alimentary debts are not arrestable; for these are granted on personal considerations, and so are not communicable to creditors; but the past interest due upon such debt may be arrested by the person who has furnished the alimony. One cannot secure his own effects to himself for his maintenance, so as they shall not be affectable by his creditors. Salaries annexed to offices granted by the king, and particularly those granted to the judges of the Session, and the fees of servants, are considered as alimentary funds; but the surplus fee, over and above what is necessary for the servant's personal uses, may be arrested. It has also been found, that a wadset sum consigned after an order of redemption used, but before decret of declarator, is not arrestable.

Effect of
breach of
arrestment

5. If, in contempt of the arrestment, the arrestee shall make payment of the sum, or deliver the goods arrested, to the common debtor, he is not only liable criminally for breach of arrestment, but he must pay the debt again to the arrester. As the law formerly stood, an arrestment used at the market cross of Edinburgh, pier and shore of Leith, against a person furth of the kingdom, was good; so that if the arrestee made payment to his creditor after the date of the arrestment, he was found liable in second payment to the arrester, because he had done all in his power to notify

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his diligence. This, however, is very properly altered by § 3. of the act of the 23d Geo. III. which declares, that an arrestment used at the market cross of Edinburgh, pier and shore of Leith, in the hands of any person out of the kingdom, without other sufficient notification, shall not interpel the arrestee from paying *bona fide* to the original creditor. Arrestment is not merely prohibitory, as inhibitions are; but is a step of diligence which founds the user in a subsequent action, whereby the property of the subject arrested may be adjudged to him. It therefore does not, by our latter practice, fall by the death of the arrestee; but continues to subsist, as a foundation for an action of forthcoming against his heir, while the subject arrested remains *in medio*. Far less is arrestment lost, either by the death of the arrester, or of the common debtor.

6. Where arrestment proceeds on a depending action, it may be loosed by the common debtor's giving security to the arrester for his debt in the event it shall be found due. Arrestment founded on decrees, or on registered obligations, which in the judgment of law are decrees, cannot be loosed but upon payment or consignation; except, (1.) Where the term of payment of the debt is not yet come, or the condition has not yet existed. (2.) Where the arrestment has proceeded on a registered contract, in which the debts or mutual obligations are not liquid. (3.) Where the decree is suspended, or turned into a libel; for, till the suspension be discussed, or the pending action concluded, it cannot be known whether any debt be truly due. A loosing takes off the *nexus* which had been laid on the subject arrested; so that the arrestee may thereafter pay safely to his creditor, and the cautioner is substituted in place of the arrestment, for the arrester's security: yet the arrester may, while the subject continues with the arrestee, pursue him in a forthcoming, notwithstanding the loosing.

7. Arrestment is only an inchoated or begun diligence; to perfect it, there must be an action brought by the arrester against the arrestee, to make the debt or subject arrested forthcoming. In this action, the common debtor must be called for his interest, that he may have an opportunity of excepting to the lawfulness or extent of the debt on which the diligence proceeded. Before a forthcoming can be pursued, the debt due by the common debtor to the arrester must be liquidated; for the arrester can be no further intitled to the subject arrested than to the extent of the debt due to him by the common debtor. Where the subject arrested is a sum of money, it is, by the decree of forthcoming, directed to be paid to the pursuer towards satisfying his debt; where goods are arrested, the judge ordains them to be exposed to sale, and the price to be delivered to the pursuer. So that, in either case, decrees of forthcoming are judicial assignations to the arrester of the subject arrested.

8. In all competitions, regard is had to the dates, not of the grounds of debt, but of the diligences proceeding upon them. In the competition of arrestments, the preference is governed by their dates, according to the priority even of hours, where it appears with any certainty which is the first. But, as arrestment is but a begun diligence, therefore if a prior arrester shall neglect to insist in an action of forthcoming for such a time as may be reasonably construed into a desertion of his

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on arrestment.

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his begun diligence, he loses his preference. But, as dereliction of diligence is not easily presumed, the distance of above two years, between the first arrestment and the decree of forthcoming, was found not to make such a *mora* as to intitle the posterior arrester to a preference. This rule of preference, according to the dates of the several arrestments, holds, by our present practice, whether they have proceeded on a decree or on a dependence; on debts not yet payable, or on debts already payable; provided the pendency shall have been closed, or the debt have become payable, before the issue of the competition.

By act 23d Geo. III. § 2. it is enacted, that when a debtor is made bankrupt, in terms of the act 1696, as thereby extended (clxxxiii. 13.), all arrestments which shall have been used for attaching any personal effects of such bankrupt within thirty days prior to the bankruptcy, or within four kalendar months immediately subsequent, shall be *pari passu* preferable: and in order to save as far as possible the expence of a multiplicity of arrestments, it is declared, that where the effects of a debtor are arrested by any creditor within thirty days before the bankruptcy, or within four months after it, and a process of forthcoming or multiplepoinding is brought in which such arrestment is founded on, it shall be competent for any other creditor producing his interest, and making his claim in the said process, at any time before the expiration of the said four months, to be ranked in the same manner as if he had used the form of arrestment; the expence of raising the process, and of the diligence at the instance of the creditor who raises it, being always paid out of the common fund. We here again repeat, that the enactments of this statute are only temporary, and not yet a permanent part of the law of Scotland, whatever they may become when the subject is resumed by the legislature upon the expiry of the act.

9. In the competition of arrestments with assignations, an assignation by the common debtor, intimated before arrestment, is preferable to the arrestment. If the assignation is granted before arrestment, but not intimated till after it, the arrester is preferred.

Poinding.

10. POINDING is that diligence affecting moveable subjects, by which their property is carried directly to the creditor. No poinding can proceed, till a charge be given to the debtor to pay or perform, and the days thereof be expired, except poindings against vassals for their feu-duties, and poindings against tenants for rent, proceeding upon the landlord's own decree; in which the ancient custom of poinding without a previous charge continues. A debtor's goods may be poinded by one creditor, though they have been arrested before by another; for arrestment being but an imperfect diligence, leaves the right of the subject still in the debtor, and so cannot hinder any creditor from using a more perfect diligence, which has the effect of carrying the property directly to himself.

11. No cattle pertaining to the plough, nor instruments of tillage, can be poinded in the time of labouring or tilling the ground, unless where the debtor has no other goods. By labouring-time is understood, that time, in which that tenant, whose goods are to be poinded, is ploughing, though he should have been earlier or later than his neighbours; but summer fallowing does not fall under this rule.

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12. In the execution of poinding, the debtor's goods must be appraised, first, on the ground of the lands where they are laid hold on, and a second time at the market-cross of the jurisdiction, by the stated appraisers thereof; or, if there be none, by persons named by the messenger or other officer employed in the diligence. Next, the messenger must, after public intimation by three oyeses, declare the value of the goods according to the second appraisalment, and require the debtor to make payment of the debt, including interest and expences. If payment shall be offered to the creditor, or in his absence to his lawful attorney; or if, in case of refusal by them, consignation of the debt shall be made in the hands of the judge-ordinary or his clerk, the goods must be left with the debtor; if not, the messenger ought to adjudge and deliver them over, at the appraised value, to the user of the diligence towards his payment: and the debtor is intitled to a copy of the warrant and executions, as a voucher that the debt is discharged in whole or in part by the goods poinded.

13. Ministers may poind for their stipends, upon one appraisalment on the ground of the lands, and landlords were always in use to poind so, for their rents. Appraisalment of the goods at the market-cross of the next royal borough, or even of the next head-borough of stewartry or regality, though these jurisdictions be abolished, is declared as sufficient as if they were carried to the head-borough of the shire. Poinding, whether it be considered as a sentence, or as the execution of a sentence, must be proceeded in between sun-rising and sun-setting; or at least it must be finished before the going off of day-light.—The powers of the officer employed in the execution of poindings, are not clearly defined by custom, in the case of a third party claiming the property of the goods to be poinded. This is certain, that he may take the oath of the claimant, upon the verity of his claim; and if from thence it shall appear that the claimant's title is collusive, he ought to proceed in the diligence; but if there remains the least doubt, his safest course is to deliver the goods to the claimant, and to express in his execution the reasons why poinding did not proceed.

Powers of
messengers
in poind-
ing.

14. Any person who stops a poinding *via facti*, on groundless pretences, is liable, both criminally, in the pains of deforcement (see N^o clxxxvi. 15.), and civilly, in the value of the goods which might have been poinded by the creditor.

By the foresaid statute 23d Geo. III. § 4. it is declared, that after a person is rendered bankrupt, as thereby directed, no poinding of the moveables belonging to such bankrupt, within 30 days before his bankruptcy, or within four kalendar months thereafter, shall give a preference to such poinder over the other lawful creditors of the bankrupt; but the goods so poinded shall be considered as *in medio*, and the person receiving the price of them shall be liable to make the same forthcoming, so as that all the other creditors of the bankrupt who are possessed of liquidate grounds of debt or decrees for payment, shall be intitled to their proportion of the same; provided they make their claim by summoning the poinder at any time before the expiration of the said four months, deducting always the expence of such poinding from the first end of the price of such goods, together with 20 *per cent.* on the appraised value, which the poinder shall retain

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Form
thereof.

to account of his debt in preference to the other creditors; reserving liberty to him to rank on the remaining sum for the full amount of the debt contained in his diligence. And it is by the said act further declared, that where any person concerned in trade or manufactures is bankrupt, as before mentioned, it may be lawful for any creditor, to the amount of L. 100, or any two creditors to the amount of L. 150, or any three or more creditors to the amount of L. 200 or upwards, to apply for sequestration of the estate real and personal belonging to the debtor: after awarding which, an interim factor, and then a trustee, shall be chosen by the creditors, who is to conduct the business of the sequestration, according to the various rules fixed and laid down by the statute. The act, however, expressly excludes all others, except those concerned in trade or manufactures, from the benefit of the sequestration; but it is probable, when it comes to be renewed or digested in another form, this part of it will suffer an alteration.

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SECT. XIX. *Of Prescription.*

Prescription.

PREScription, which is a method, both of establishing and of extinguishing property, is either *positive* or *negative*. *Positive* prescription is generally defined, as the Roman *usucapio*. The acquisition of property (it should rather be, when applied to our law, the securing it against all further challenge) by the possessor's continuing his possession for the time which law has declared sufficient for that purpose: *negative*, is the loss or amission of a right, by neglecting to follow it forth, or use it, during the whole time limited by law. The doctrine of prescription, which is, by some writers, condemned as contrary to justice, has been introduced, that the claims of negligent creditors might not subsist for ever, that property might be at last fixed, and forgeries discouraged, which the difficulty of detecting must have made exceeding frequent, if no length of time had limited the legal effect of writings.

Positive.

2. Positive prescription was first introduced into our law by 1617, c. 12. which enacts, that whoever shall have possessed his lands, annualrents, or other heritages, peaceably, in virtue of infeftments, for 40 years continually after their dates, shall not thereafter be disquieted in his right by any person pretending a better title. Under *heritages* are comprehended every right that is *fundo annexum*, and capable of continual possession. Continued possession, if proved as far back as the memory of man, presumes possession upwards to the date of the infeftment. The whole course of possession must by the act be founded on seifins; and consequently no part thereof on the bare right of apparency: but 40 years possession, without seifin, is sufficient in the prescription of such heritable rights as do not require seifin. The possession must also be without any *lawful* interruption, *i. e.* it must neither be interrupted *via facti*, nor *via juris*. The prescription of subjects not expressed in the infeftment as part and pertinent of another subject specially expressed, has been explained, No clxvii. 6.

3. The act requires, that the possessor produce, as his title of prescription, a charter of the lands preceeding the 40 years possession, with the seifin following on it: and where there is no charter extant, seifins, one or more, standing together for 40 years, and

proceeding either on retours or precepts of *clare constat*. This has given rise to a reasonable distinction observed in practice, between the prescription of a singular successor, and of an heir. Singular successors must produce for their title of prescription, not only a seifin, but its warrant, as a charter, disposition, &c. either in their own person, or in that of their author: but the production, by an heir, of seifins, one or more, standing together for 40 years, and proceeding on retours or precepts of *clare constat*, is sufficient. The heir is not obliged to produce the retours or precepts on which his seifins proceed, nor is the singular successor obliged to produce the ground of his charter; so that if the title of prescription produced be a fair deed, and a sufficient title of property, the possessor is secure by the act, which admits no ground of challenge, but falsehood. A special statute, for establishing the positive prescription in moveable rights, was not necessary; for, since a title in writing is not requisite for the acquiring of these, the negative prescription, by which all right of action for recovering their property is cut off, effectually secures the possessor.

4. The negative prescription of obligations, by the Negative lapse of 40 years, was introduced into our law long before the positive, (1469, c. 29.—1474, c. 55.) This prescription is now amplified by the foresaid act (1617), which has extended it to all actions competent upon heritable bonds, reversions, and others whatsoever; unless where the reversions are either incorporated in the body of the wadset-right, or registered in the register of reversions: And reversions so incorporated, or registered, are not only exempted from the negative prescription, but they are an effectual bar against any person from pleading the positive.

5. A shorter negative prescription is introduced by A shorter statute, in certain rights and debts. Actions of spuilzie, ejection, and others of that nature, must be pursued within three years after the commission of the fact on which the action is founded. As in spuilzies and ejections, the pursuer was entitled, *in odium* of violence, to a proof by his own oath *in litem*, and to the violent profits against the defender, the statute meant only to limit these special privileges by a three years prescription, without cutting off the right of action, where the claim is restricted to simple restitution. Under the general words, *and others of that nature*, are comprehended all actions where the pursuer is admitted to prove his libel by his own oath *in litem*.

6. Servants fees, house-rents, mens ordinaries, (*i. e.* money due for board), and merchants accounts, fall under the triennial prescription, (by 1579, c. 83.) There is also a general clause subjoined to this statute, of other the like debts, which includes alimentary debts, wages due to workmen, and accounts due to writers, agents, or procurators. These debts may, by this act, be proved after the three years, either by the writing or oath of the debtor; so that they prescribe only as to the mean of proof by witnesses; but after the three years, it behoves the creditor to refer to the debtor's oath, not only the constitution, but the subsistence of the debt. In the prescription of house-rents, servants fees, and alimony, each term's rent, fee, or alimony, runs a separate course of prescription; so that in an action for these the claim will be restricted to the arrears incurred within the three years immediately before

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before the citation: But, in accounts, prescription does not begin till the last article; for a single article cannot be called an account. Actions of removing must also be pursued within three years after the warning. Reductions of erroneous retours prescribe, if not pursued within 20 years.

Of mini-
sters sti-
pends, &c.

7. Ministers stipends and multures prescribe in five years after they are due; and arrears of rent, five years after the tenant's removing from the lands. As the prescription of mails and duties was introduced in favour of poor tenants, that they might not suffer by neglecting to preserve their discharges, a proprietor of lands subject to a liferent, who had obtained a lease of all the liferented lands from the liferenter, is not intitled to plead it, nor a tacksmen of one's whole estate, who had by the lease a power of removing tenants. Bargains concerning moveables, or sums of money which are proveable by witnesses, prescribe in five years after the bargain. Under these are included sales, locations, and all other consensual contracts, to the constitution of which writing is not necessary. But all the abovementioned debts, may, after the five years, be proved, either by the oath or the writing of the debtor; of which above, (par. 6.) A quinquennial prescription is established in arrestments, whether on decrees or depending actions: The first prescribe in five years after using the arrestment, and the last in five years after sentence is pronounced on the depending action.

Limitation
of caution-
ery.

8. No person binding for or with another, either as cautioner or co-principal, in a bond or contract for a sum of money, continues bound after seven years from the date of the bond, provided he has either a clause of relief in the bond, or a separate bond of relief, intimated to the creditor, at his receiving the bond. But all diligence used within the seven years against the cautioner shall stand good. As this is a public law, intended to prevent the bad consequences of rash engagements, its benefit cannot, before the lapse of the seven years, be renounced by the cautioner. As it is correctory, it is strictly interpreted: Thus, bonds bearing a mutual clause of relief *pro rata*, fall not under it; nor bonds of corroboration, nor obligations, where the condition is not purified, or the term of payment not come within the seven years; because no diligence can be used on these. The statute excludes all cautioneries for the faithful discharge of offices; these not being obligations in a bond or contract for sums of money. And practice has denied the benefit of it to all judicial cautioners, as cautioners in a suspension.—Actions of count and reckoning, competent either to minors against their tutors or curators, or *vice versa*, prescribe in ten years after the majority or death of the minor.

Prescrip-
tion of ho-
lograph
writings.

9. Holograph bonds, missive letters, and books of account, not attested by witnesses, prescribe in 20 years, unless the creditor shall thereafter prove the verity of the subscription by the debtor's oath. It is therefore sufficient to save from the effect of this prescription, that the constitution of the debt be proved by the party's oath after the 20 years; whereas, in stipends, merchants accounts, &c. not only the constitution, but the subsistence of the debt, must be proved by writing or the debtor's oath, after the term of prescription. Some lawyers extend this prescrip-

tion of holograph writings to all obligations for sums not exceeding L. 100 Scots, which are not attested by witnesses; because though these are in practice sustained, yet they ought not to have the same duration with deeds attested by witnesses. Though in the short prescriptions of debts, the right of action is for ever lost, if not exercised within the time limited; yet where action was brought on any of those debts, before the prescription was run, it subsisted, like any other right, for 40 years. As this defeated the purpose of the acts establishing these prescriptions, all processes upon warnings, spuilzies, ejections, or arrestments, or for payment of the debts contained in act 1669, c. 9. are by the said act, joined with 1685, c. 14. declared to prescribe in five years, if not awakened within that time; see N^o clxxxiii. 26.

10. Certain obligations are lost by the lapse of less than 40 years, without the aid of statute, where the nature of the obligation, and the circumstances of parties, justify it: thus, bills which are not intended for lasting securities, produced no action, where the creditor had been long silent, unless the subsistence of the debt be proved by the debtor's oath; but the precise time was not fixed by practice. But the duration of bills is now limited to six years by the 12 Geo. III.; rendered perpetual by 23 Geo. III. Thus also, a receipt for bills granted by a writer to his employer, not insisted upon for 23 years, was found not productive of an action. The prescriptions of the restitution of minors, of the benefit of inventory, &c. are explained in their proper places.

Extinction
of obliga-
tions by ta-
citurnity.

11. In the positive prescription, as established by the act 1617, the continued possession for 40 years, proceeding upon a title of property not chargeable with falsehood, secures the possessor against all other grounds of challenge, and so presumes *bona fides*, *presumptione juris et de jure*. In the long negative prescription, *bona fides* in the debtor is not required: the creditor's neglecting to insist for so long a time, is construed as an abandoning of his debt, and so is equivalent to a discharge. Hence, though the subsistence of the debt should be referred to the debtor's own oath, after the 40 years, he is not liable.

Bona fides
prescrip-
tion.

12. Prescription runs *de momento in momentum*: the whole time defined by law must be completed, before a right can be either acquired or lost by it; so that interruption, made on the last day of the 40th year, breaks its course. The positive prescription runs against the sovereign himself, even as to his annexed property; but it is generally thought he cannot suffer by the negative: he is secured against the negligence of his officers in the management of processes, by express statute, 1600, c. 14. The negative, as well as the positive prescription, runs against the church, though churchmen have but a temporary interest in their benefices. But because the rights of beneficiaries to their stipends are liable to accidents, through the frequent change of incumbents, 13 years possession does, by a rule of the Roman chancery which we have adopted, found a presumptive title in the beneficiary: but this is not properly prescription; for if by titles recovered, perhaps out of the incumbent's own hands, it shall appear that he has possessed tithes or other subjects to a greater extent than he ought, his possession will be restricted accordingly. This right must

Prescrip-
tion, a-
gainst
whom it
runs.

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must not be confounded with that established in favour of churchmen, which is confined to church lands and rents, and constitutes a proper prescription upon a possession of 30 years.

13. The clause in the act 1617, saving minors from prescription, is extended to the positive, as well as to the negative prescription; but the exception of minority is not admitted in the case of hospitals for children, where there is a continual succession of minors, that being a *casus insolitus*. Minors are expressly excepted in several of the short prescriptions, as 1579, c. 18.—1669, c. 9.; but where law leaves them in the common case, they must be subject to the common rules.

14. Prescription does not run *contra non valentem agere*, against one who is barred, by some legal incapacity, from pursuing; for in such case, neither negligence nor dereliction can be imputed to him. This rule is, by a favourable interpretation, extended to wives, who *ex reverentia maritali* forbear to pursue actions competent to them against their husbands. On the same ground, prescription runs only from the time that the debt or right could be sued upon. Thus, inhibition prescribes only from the publishing of the deed granted to the inhibitor's prejudice; and in the prescription of removings, the years are computed only from the term at which the defender is warned to remove. Neither can prescription run against persons who are already in possession, and so can gain nothing by a pursuit. Thus, where a person, who has two adjudications affecting the same lands, is in possession upon one of them, prescription cannot run against the other during such possession.

Certain
rights inca-
pable of
prescrip-
tion.

15. Certain rights are incapable of prescription: (1.) Things that law has exempted from commerce. (2.) *Res mere facultatis*, e. g. a faculty to charge a subject with debts, to revoke, &c. cannot be lost by prescription; for faculties may, by their nature, be exercised at any time: hence, a proprietor's right of using any act of property on his own grounds, cannot be lost by the greatest length of time. (3.) Exceptions competent to a person for eliding an action, cannot prescribe, unless the exception is founded on a right productive of an action, e. g. compensation; such right must be insisted on within the years of prescription. (4.) Obligations of yearly pensions or payments, though no demand has been made on them for 40 years, do not suffer a total prescription, but still subsist as to the arrears fallen due within that period; because prescription cannot run against an obligation till it be payable, and each year's pension or payment is considered as a separate debt.

16. No right can be lost *non utendo* by one, unless the effect of that prescription be to establish it in another. Hence the rule arises, *juri sanguinis nunquam prescribitur*. Hence also, a proprietor of land cannot lose his property by the negative prescription, unless he who objects it can himself plead the positive. On the same ground, a superior's right of feu duties cannot be lost *non utendo*; because, being inherent in the superiority, it is truly a right of lands that cannot suffer the negative prescription, except in favour of one who can plead the positive; which the vassal cannot do, being destitute of a title. This rule applies also to parsonage tithes, which are an inherent burden

upon all lands not specially exempted; and from which therefore the person liable cannot prescribe an immunity by bare non-payment: but such vicarage tithes as are only due where they are established by usage, may be lost by prescription. In all these cases, though the radical right cannot suffer the negative prescription, the bygone duties, not demanded within the 40 years, are lost to the proprietor, superior, or titular.

17. Prescription may be interrupted by any deed whereby the proprietor or creditor uses his right or ground of debt. In all interruptions, notice must be given to the possessor of the subject, or the debtor, that the proprietor or creditor intends to sue upon his right. All writings whereby the debtor himself acknowledges the debt, and all processes for payment brought, or diligences used against him upon his obligation, by horning, inhibition, arrestment, &c. must be effectual to interrupt prescription.

18. Interruptions, by citation upon libelled summonses, where they are not used by a minor, prescribe, if not renewed every seven years: but where the appearance of parties, or any judicial act has followed thereupon, it is no longer a bare citation, but an action which subsists for 40 years. It has been found, that the sexennial prescription of bills is not interrupted by a blank citation, as practised in the court of admiralty. Citations for interrupting the prescription of real rights must be given by messengers; and the summonses, on which such citations proceed, must pass the signet upon the bill, and be registered within 60 days after the execution, in a particular register appointed for that purpose: and where interruption of real rights is made *via facti*, an instrument must be taken upon it, and recorded in the said register; otherwise it can have no effect against singular successors.

19. Interruption has the effect to cut off the course of prescription, so that the person prescribing can avail himself of no part of the former time, but must begin a new course, commencing from the date of the interruption. Minority, therefore, is no proper interruption: for it neither breaks the course of prescription, nor is it a document or evidence taken by the minor on his right: it is a personal privilege competent to him, by which the operation of the prescription is indeed suspended during the years of minority, which are therefore discounted from it; but it continues to run after majority, and the years before and after the minority may be conjoined to complete it. The same doctrine applies to the privilege arising from one's incapacity to act.

20. Diligence used upon a debt, against any one of two or more co-obligants, preserves the debt itself, and so interrupts prescription against all of them; except in the special case of cautioners, who are not affected by any diligence used against the principal debtor. In the same manner, a right of annualrent, constituted upon two separate tenements, is preserved as to both from the negative prescription, by diligence used against either of them. But whether such diligence has also the effect to hinder the possessor of the other tenement by singular titles from the benefit of the positive prescription, may be doubted.

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Interrup-
tion of pre-
scription.

III. OF SUCCESSION.

clxxx. SECT. XX. *Of succession in heritable rights.*Successors
singular
and univer-
sal.

SINGULAR successors are those who succeed to a person yet alive, in a special subject by singular titles; but succession, in its proper sense, is a method of transmitting rights from the dead to the living. Heritable rights descend by succession to the *heir* properly so called; moveable rights to the *executors*, who are sometimes said to be heirs in moveables. Succession is either by *special destination*, which descends to those named by the proprietor himself; or *legal*, which devolves upon the persons whom the law marks out for successors, from a presumption, that the proprietor would have named them had he made a destination. The first is in all cases preferred to the other, as presumption must yield to truth.

Order of
succession
in heritage.

2. In the succession of heritage, the heirs at law are otherwise called heirs general, heirs whatsoever, or heirs of line; and they succeed by the right of blood, in the following order. First, descendants; among these, sons are preferred to daughters, and the eldest son to all the younger. Where there are daughters only, they succeed equally, and are called heirs-portioners. Failing immediate descendants, grandchildren succeed; and in default of them, great-grandchildren; and so on *in infinitum*: preferring, as in the former case, males to females, and the eldest male to the younger.

Collateral.

3. Next after descendants, collaterals succeed; among whom the brothers *german* of the deceased have the first place. But as, in no case, the legal succession of heritage is, by the law of Scotland, divided into parts, unless where it descends to females; the immediate younger brother of the deceased excludes the rest, according to the rule, *heritage descends*. Where the deceased is himself the youngest, the succession goes to the immediate elder brother, as being the least deviation from this rule. If there are no brothers *german*, the sisters *german* succeed equally: then brothers *consanguinean*, in the same order as brothers *german*; and failing them, sisters *consanguinean* equally. Next, the father succeeds. After him, his brothers and sisters, according to the rules already explained; then the grand-father; failing him, his brothers and sisters; and so upwards, as far back as propinquity can be proved. Though children succeed to their mother, a mother cannot to her child; nor is there any succession by our law through the mother of the deceased; in so much that one brother *uterine*, *i. e.* by the mother only, cannot succeed to another, even in that estate which flowed originally from their common mother.

No succe-
sion by the
mother.Succession
in capita
and in
stirpe.

4. In heritage there is a *right of representation*, by which one succeeds, not from any title in himself, but in the place, and as representing some of his deceased ascendants. Thus, where one leaves a younger son, and a grandchild by his eldest, the grandchild, though farther removed in degree from the deceased than his uncle, excludes him, as coming in place of his father the eldest son. Hence arises the distinction between succession *in capita*, where the division is made into as many equal parts as there are *capita* or heirs, which is

the case of heirs-portioners; and succession *in stirpes*, where the remoter heirs draw no more among them than the share belonging to their ascendent or *stirps*, whom they represent; an example of which may be figured in the case of one who leaves behind him a daughter alive, and two grand-daughters by a daughter deceased. In which case the two grand-daughters would succeed equally to that half which would have belonged to their mother had she been alive.

5. In the succession of heirs-portioners, indivisible Succession rights, *e. g.* titles of dignity, fall to the eldest sister. of heirs-portioners. A single right of superiority goes also to the eldest; for it hardly admits a division, and the condition of the vassal ought not to be made worse by multiplying superiors upon him. Where there are more such rights, the eldest may perhaps have her election of the best; but the younger sisters are intitled to a recompence, in so far as the divisions are unequal; at least, where the superiorities yield a constant yearly rent. The principal seat of the family falls to the eldest, with the garden and orchard belonging to it, without recompence to the younger sisters; but all other houses are divided amongst them, together with the lands on which they are built, as parts and pertinents of these lands. A *præcipuum*, however, is due only in the case of succession of heirs-portioners *ab intestato*; and therefore there is no place for it where the succession is taken under a deed.

6. Those heritable rights, to which the deceased did Heir of himself succeed as heir to his father or other ancestor, conquest. get sometimes the name of heritage in a strict sense, in opposition to the *feuda nova*, or feus of conquest, which he had acquired by singular titles, and which descend, not to his heir of line, but of conquest. This distinction obtains only where two or more brothers or uncles, or their issue, are next in succession; in which case, the immediate younger brother, as heir of line, succeeds to the proper heritage, because that descends; whereas the conquest ascends to the immediate elder brother. It has no place in female succession, which the law divides equally among the heirs-portioners. Where the deceased was the younger brother, the immediate elder brother is heir both of line and of conquest. An estate disposed by a father to his eldest son, is not conquest in the son's person, but heritage; because the son would have succeeded to it, though there had been no disposition. The heir of conquest succeeds to all rights affecting land, which require seisin to perfect them. But teinds go to the heir of line; because they are merely a burden on the fruits, not on the land. Tacks do not fall under conquest, because they are complete rights without seisin; nor personal bonds taken to heirs excluding executors.

7. The heir of line is intitled to the succession, not Heirship--moveables. only of subjects properly heritable, but to that sort of moveables called *heirship*, which is the best of certain kinds. This doctrine has been probably introduced, that the heir might not have an house and estate to succeed to, quite dismantled by the executor. In that sort which goes by pairs or dozens, the best pair or dozen is the heirship. There is no heirship in fungibles, or things estimated by quantity; as grain, hay, current money, &c. To intitle an heir to this privilege, the deceased must have been either, (1.) A prelate: (2.) A baron,

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Succession
by destina-
tion.

Tailzies.

Their re-
quisites.

baron, *i. e.* who stood infeft at his death in lands, tho' not erected into a barony; or even in a right of annualrent: Or, (3.) A burghs; not an honorary one, but a trading burghs of a royal borough, or at least one intitled to enter burghs in the right of his ancestor. Neither the heir of conquest, nor of tailzie, has right to heirship-moveables.

8. As to succession by destination, no proprietor can settle any heritable estate, in the proper form of a testament; not even bonds secluding executors, tho' these are not heritable *ex sua natura*: But, where a testament is in part drawn up in the style of a deed *inter vivos*, such part of it may contain a settlement of heritage, though executors should be named in the testamentary part. The common method of settling the succession of heritage is by disposition, contract of marriage, or simple procuratory of resignation: and, tho' a disposition settling heritage should have neither precept nor procuratory, it founds an action against the heir of line to complete his titles to the estate; and thereafter divest himself in favour of the disponent. The appellation of tailzie, or entail, is chiefly used in the case of a land estate, which is settled on a long series of heirs substituted one after another. The person first called in the tailzie, is the institute; the rest, the heirs of tailzie, or the substitutes.

9. Tailzies, when considered in relation to their several degrees of force, are either, (1.) Simple destinations: (2.) Tailzies with prohibitory clauses. (3.) Tailzies with prohibitory, resolute, and irritant clauses. That is a simple destination, where the persons called to the succession are substituted one after another, without any restraint laid on the exercise of their property. The heirs, therefore, succeeding to such estate, are absolute fiars, and consequently may alter the destination at pleasure.

10. In tailzies with clauses prohibitory, *e. g.* declaring that it shall not be lawful to the heirs to contract debts or alien the lands in prejudice of the succession, none of the heirs can alien gratuitously. But the members of entail may contract debts which will be effectual to the creditors, or may dispose of the estate for onerous causes. In both these sorts, the maker himself may alter the tailzie; except, (1.) Where it has been granted for an onerous cause, as in mutual tailzies; or (2.) Where the maker is expressly disabled, as well as the institute or the heirs.

11. Where a tailzie is guarded with irritant and resolute clauses, the estate entailed cannot be carried off by the debt, or deed, of any of the heirs succeeding thereto, in prejudice of the substitutes. It was long doubted, whether such tailzies ought to be effectual, even where the superior's consent was adhibited; because they sunk the property of estates, and created a perpetuity of liferents. They were first explicitly authorised by 1685, c. 22. By this statute, the entail must be registered in a special register established for that purpose; and the irritant and resolute clauses must be inserted, not only in the procuratories, precepts, and seifins, by which the tailzies are first constituted, but in all the after conveyances thereof; otherwise they can have no force against singular successors. But a tailzie, even without these requisites, is effectual against the heir of the granter, or against the institute who accepts of it. It has been found, that an entail,

tho' completed by infeftment before the act 1685, was ineffectual, because not recorded in terms of the act.

12. An heir of entail has full power over the entailed estate, except in so far as he is expressly fettered; and as entails are an unfavourable restraint upon property, and a frequent snare to trading people, they are *strictissimi juris*: so that no prohibition or irritancies are to be inferred by implication. By 10 George III. c. 51. heirs of entail are intitled (notwithstanding any restrictions in the deed of entail) to improve their estates by granting leases, building farm-houses, draining, inclosing, and excambing, under certain limitations, and to claim repayment of three-fourths of the expence from the next heir of entail.—This act extends to all tailzies, whether made prior or posterior to the 1685.

13. An heir, who counteracts the directions of the tailzie, by aliening any part of the estate, charging it with debt, &c. is said to contravene. It is not the simple contracting of debt that infers contravention; the lands entailed must be actually adjudged upon the debt contracted. An heir may, where he is not expressly barred, settle rational provisions on his wife and children, without incurring contravention. It is not quite clear whether the heirs also of the contravener would forfeit their right from the acts or deeds of their predecessor where there is no express clause in the entail settling it; and though the words of the act 1685 (which declares, that entails executed according to the directions of it, shall be effectual not only against the contravener and his heirs, but against creditors), may seem to favour the idea that heirs also would forfeit, the more favourable opinion has received the sanction of our supreme court. For the greater security, however, a clause is now usually inserted in tailzies, declaring, that the contravention of the heir in possession shall not affect his descendants, when such is the intention of the granter.

14. When the heirs of the last person specially called in a tailzie come to succeed, the irritancies have no longer any person in favour of whom they can operate; and consequently, the fee, which was before tailzied, becomes simple and unlimited in the person of such heirs. By the late act 20th Geo. II. for abolishing wardholdings, the king may purchase lands within Scotland, notwithstanding the strictest entail; and where the lands are in the hands of minors or fatuous persons, his majesty may purchase them from the curators or guardians. And heirs of entail may sell to their vassals the superiorities belonging to the entailed estate; but in all these cases, the price is to be settled in the same manner that the lands or superiorities sold were settled before the sale.

15. Rights, not only of land-estates, but of bonds, are sometimes granted to two or more persons in conjunct fee. Where a right is so granted to two strangers, without any special clause adjected to it, each of them has an equal interest in the fee, and the part of the deceased descends to his own heir. If the right be taken to the two jointly, and the *longest liver* and their heirs, the several shares of the conjunct fiars are affectable by their creditors during their lives: but, on the death of any one of them, the survivor has the fee of the whole, in so far as the share of the predeceased remains free, after payment of his debts. Where the right is taken to the two in conjunct fee, and to the heirs

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entail, their
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restrictions.

Contraven-
tion, by
whom in-
ferred.

In what
cases an
heir may
sell.

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taken in
conjunct
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heirs of one of them, he to whose heirs the right is taken is the only *fiar*; the right of the other resolves into a simple *liferent*: yet where a father takes a right to himself and his son jointly, and to the son's heirs, such right being gratuitous, is not understood to strip the father of the fee, unless a contrary intention shall plainly appear from the tenor of the right.

16. Where a right is taken to a husband and wife, in conjunct fee and *liferent*, the husband, as the *persona dignior*, is the only *fiar*: the wife's right resolves into a *liferent*, unless it be presumable, from special circumstances, that the fee was intended to be in the wife. Where a right of moveables is taken to husband and wife, the heirs of both succeed equally, according to the natural meaning of the words.

Heirs of
provision.

17. Heirs of provision are those who succeed to any subject, in virtue of a provision in the investiture, or other deed of settlement. This appellation is given most commonly to heirs of a marriage. These are more favourably regarded than heirs by simple destination, who have only the hope of succession; for heirs of a marriage, because their provisions are constituted by an onerous contract, cannot be disappointed of them by any gratuitous deed of the father. Nevertheless, as their right is only a right of succession, which is not designed to restrain the father from granting onerous or rational deeds, he continues to have the full power of selling the subject, or charging it with debts, unless a proper right of credit be given to the heir by the marriage-contract. *e. g.* if the father should oblige himself to invest the heir in the lands, or make payment of the sum provided against a day certain, or when the child attains a certain age, &c.; for such rights, when perfected by investiture, or secured by diligence, are effectual against all the posterior deeds of the father, even onerous.

Effects of
provision to
children.

18. Though all provisions to children, by a marriage contract conceived in the ordinary form, being merely rights of succession, are postponed to every onerous debt of the granter, even to those contracted posterior to the provisions; yet where a father executes a bond of provision to a child actually existing, whether such child be the heir of a marriage or not, a proper debt is thereby created, which, though it be without doubt gratuitous, is not only effectual against the father himself and his heirs, but is not reducible at the instance even of his prior onerous creditors, if he was solvent at the time of granting it. A father may, notwithstanding a first marriage-contract, settle a jointure on a second wife, or provide the children of a second marriage; for such settlements are deemed onerous; but where they are exorbitant, they will be restricted to what is rational: and in all such settlements, where the provisions of the first marriage-contract are encroached upon, the heirs of that marriage have recourse against the father, in case he should afterwards acquire a separate estate, which may enable him to fulfil both obligations.

Provision
to heirs.

19. In marriage contracts, the conquest, or a certain part of it, is frequently provided to the issue; by which is understood whatever real addition shall be made to the father's estate during the marriage by purchase or donation. Conquest therefore must be free, *i. e.* what remains after payment of debts due by the father. As in other provisions, so in conquest; the father is still

fiar, and may therefore dispose of it for onerous or rational causes. Where heritable rights are provided to the heirs of a marriage, they fall to the eldest son, for he is the heir at law in heritage. Where a sum of money is so provided, the word *heir* is applied to the subject of the provision, and so marks out the executor, who is the heir in moveables. When an heritable right is provided to the *bairns* (or issue) of a marriage, it is divided equally among the children, if no division be made by the father; for such destination cuts off the exclusive right of the legal heir. No provision granted to bairns, gives a special right of credit to any one child, as long as the father lives: the right is granted *familie*; so that the whole must indeed go to one or other of them; but the father has a power inherent in him, to divide it among them, in such proportions as he thinks best, yet so as none of them may be entirely excluded, except in extraordinary cases.

To bairns.

20. A clause of return is that, by which a sum in a bond or other right, is in a certain event limited to return to the granter himself, or his heirs. When a right is granted for onerous causes, the creditor may defeat the clause of return, even gratuitously. But, where the sum in the right flows from the granter, or where there is any other reasonable cause for the provision of return in his favour, the receiver cannot disappoint it gratuitously. Yet since he is *fiar*, the sum may be either assigned by him for an onerous cause, or affected by his creditors.

Clause of
return.

21. An heir is, in the judgment of law, *eadem persona cum defuncto*, and so represents the deceased universally, not only in his rights, but in his debts: in the first view, he is said to be heir *active*; in the second, *passive*. From this general rule are excepted, heirs substituted in a special bond, and even substituted in a disposition *omnium bonorum*, to take effect at the granter's death; for such substitutes are considered as singular successors, and their right as an universal legacy, which does not subject the legatee *ultra valorem*, but heirs male or of tailzie, though their right be limited to special subjects, are liable, not merely to the extent of the subject entailed or provided, but *in solidum*; because such rights are designed to carry an universal character, and so infer an universal representation of the granter. The heir of line is primarily liable for the debts of his predecessor; for he is the most proper heir, and so must be discussed before any other can be pursued; next to him the heir of conquest, because he also succeeds to the *universitas* of the whole heritable rights which his predecessor had acquired by singular titles; then, the heir male, or of a marriage; for their propinquity of blood subjects them more directly than any other heir of tailzie, who may possibly be a stranger; and who for that reason is not liable to be discussed, except for such of the predecessor's debts or deeds as relate specially to the lands tailzied; as to which he is liable even before the heir of line. Heirs portioners are liable *pro rata* for their predecessors debts; but if any of them prove insolvent, the creditor may, after discussing her, insist for her share against the rest, who will be liable in so far as they are *lucrati* by the succession. Where an heir, liable *subsidiarie*, pays the predecessor's debt, he has relief against the heir who is more directly liable, in respect of whom he is not co-heir, but creditor.

Heirs.

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Scotland.Law of
Scotland.Apparent
heirs.

22. Before an heir can have an active title to his ancestor's rights, he must be entered by service and retour. He who is intitled to enter heir, is, before his actual entry, called *apparent heir*. The bare right of apparenacy carries certain privileges with it. An apparent heir may defend his ancestor's titles against any third party who brings them under challenge. Tenants may safely pay him their rents; and after they have once acknowledged him by payment, he may compel them to continue it; and the rents not uplifted by the apparent heir belong to his executors, upon his death.

*Jus deli-
berandi.*

23. As an heir is, by his entry, subjected universally to his ancestor's debts, apparent heirs have therefore a year (*annus deliberandi*) allowed to them from the ancestor's decease, to deliberate whether they will enter or not; till the expiry of which, though they may be charged by creditors to enter, they cannot be sued in any process founded upon such charge. Though declaratory actions, and others which contain no personal conclusion, may be pursued against the apparent heir, without a previous charge; action does not lie even upon these, within the year, if the heir cannot make the proper defences without incurring a passive title. But judicial sales, commenced against an ancestor, may by special act of sederunt be continued upon a citation of the heir, without waiting the year of deliberating. This *annus deliberandi* is computed, in the case of a posthumous heir, from the birth of such heir. An apparent heir, who, by immixing with the estate of his ancestor, is as much subjected to his debts as if he had entered, can have no longer a right to deliberate whether he will enter or not.

Service of
heirs,

24. All services proceed on brieves from the chancery, which are called *brieves of inquest*, and have been long known in Scotland. The judge, to whom the brief is directed, is required to try the matter by an inquest of 15 sworn men. The inquest, if they find the claim verified, must declare the claimant heir to the deceased, by a verdict or service, which the judge must attest, and return the brief, with the service proceeding on it, to the chancery; from which an extract is obtained called the *retour of the service*.

general and
special.

25. The service of heirs is either *general* or *special*. A *general* service vests the heir in the right of all heritable subjects, which either do not require seisin, or which have not been perfected by seisin in the person of the ancestor. A public right, therefore, according to the feudal law, though followed by seisin, having no legal effects till it be confirmed by the superior, must, as a personal right, be carried by a general service. A *special* service, followed by seisin, vests the heir in the right of the special subjects in which the ancestor died infeft.

Entry by
inventory.

26. If an heir, doubtful whether the estate of his ancestor be sufficient for clearing his debts, shall, at any time within the *annus deliberandi*, exhibit upon oath a full inventory of all his ancestor's heritable subjects, to the clerk of the shire where the lands lie; or, if there is no heritage requiring seisin, to the clerk of the shire where he died; and if, after the same is subscribed by the sheriff or sheriff-depute, the clerk, and himself, and registered in the sheriff's books, the extract thereof shall be registered within forty days after expiry of the *annus deliberandi* in the general register appointed for

N^o 178.

that purpose, his subsequent entry will subject him no farther than to the value of such inventory. If the inventory be given up and registered within the time prescribed, the heir may serve on it, even after the year.

27. Creditors are not obliged to acquiesce in the value of the estate given up by the heir; but, if they be real creditors, may bring the estate to a public sale, in order to discover its true value; since an estate is always worth what can be got for it. An heir by inventory, as he is in effect a trustee for the creditors, must account for that value to which the estate may have been improved since the death of the ancestor, and he must communicate to all the creditors the eases he has got in transacting with any one of them.

28. Practice has introduced an anomalous sort of entry, without the interposition of an inquest, by the sole consent of the superior; who, if he be satisfied that the person applying to him is the next heir, grants him a precept (called of *clare constat*, from the first words of its recital), commanding his bailie to infeft him in the subjects that belonged to his ancestor. The heir, by taking seisin on this precept, becomes *passive*, liable for all the debts of his ancestor; and on the other hand, acquires an active title, as to the subjects contained in the precept in questions with the superior or his heirs; and they may, when followed by seisin, afford a title of prescription: But as no person can be declared an heir by private authority, they cannot bar the true heir from entering after 20 years, as a legal entry would have done; the true heir, in such case, having it still in his power to set aside that right, and obtain himself regularly served at any time within the years of prescription. Of the same nature is the entry by hasp and staple, commonly used in burgage tenements of houses; by which the bailie, without calling an inquest, cognosces or declares a person heir, upon evidence brought before himself; and, at the same time infefts him in the subject, by the symbol of the hasp and staple of the door. Charges given by creditors to apparent heirs to enter, stand in the place of an actual entry, so as to support the creditor's diligence (clxxii. 2.).

Entry by
hasp and
staple.

29. A general service cannot include a special one; since it has no relation to any special subject, and carries only that class of rights on which seisin has not proceeded; but a special service implies a general one of the same kind or character, and consequently carries even such rights as have not been perfected by seisin. Service is not required to establish the heir's right in titles of honour, or offices of the highest dignity; for these descend *jure sanguinis*.

A special
service in-
cludes a ge-
neral one.

30. An heir, by immixing with his ancestor's estate without entry, subjects himself to his debts, as if he had entered; or, in our law-phrase, incurs a passive title. The only passive title by which an apparent heir becomes liable universally for all his ancestor's debts, is *gestio pro herede*, or his behaving as none but an heir has right to do. Behaviour as heir is inferred from the apparent heir's intromission, after the death of the ancestor, with any part of the lands or other heritable subjects belonging to the deceased, to which he himself might have completed an active title by entry.

Passive
titles.*Gestio pro
herede.*

31. This passive title is excluded, if the heir's intromission be by order of law; or if it be founded on singular

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singular titles, and not as heir to the deceased. But an apparent heir's purchasing any right to his ancestor's estate, otherwise than at public roup (auction), or his possessing it in virtue of rights settled in the person of any near relation of the ancestor, to whom he himself may succeed as heir, otherwise than upon purchase by public sale, is deemed behaviour as heir.

32. Behaviour as heir is also excluded, where the intromission is small, unless an intention to defraud the ancestor's creditors be presumable from the circumstances attending it. Neither is behaviour inferred against the apparent heir, from the payment of his ancestor's debt, which is a voluntary act, and profitable to the creditors: nor by his taking out of briefs to serve; for one may alter his purpose, while it is not completed: nor by his assuming the titles of honour belonging to his ancestor, or exercising an honorary office hereditary in the family; for these are rights annexed to the blood, which may be used without proper representation. But the exercising an heritable office of profit, which may pass by voluntary conveyance, and consequently is adjudgeable, may reasonably be thought to infer a passive title. Lastly, as passive titles have been introduced, merely for the security of creditors; therefore, where questions concerning behaviour arise among the different orders of heirs, they are liable to one another no farther than *in valorem* of their several intromissions.

Præceptio
hereditatis.

33. Another passive title in heritage, may be incurred by the apparent heir's accepting a gratuitous right from the ancestor, to any part of the estate to which he himself might have succeeded as heir; and it is called *præceptio hereditatis*, because it is a taking of the succession by the heir before it opens to him by the death of his ancestor. If the right be onerous, there is no passive title; if the consideration paid for it does not amount to its full value, the creditors of the deceased may reduce it, in so far as it is gratuitous, but still it infers no passive title.

34. The heir incurring this passive title is no farther liable, than if he had at the time of his acceptance entered heir to the granter, and so subjected himself to the debts that were then chargeable against him; but with the posterior debts he has nothing to do, not even with those contracted between the date of the right and the infestment taken upon it, and he is therefore called *successor titulo lucrativo post contractum debitum*.

35. Neither of these passive titles takes place, unless the subject intermeddled with or disposed be such as the intromitter or receiver would succeed to as heir. In this also, these two passive titles agree, that the intromission in both must be after the death of the ancestor; for there can be no *termini habiles* of a passive title, while the ancestor is alive. But in the following respect they differ: *Gestio pro herede*, being a vicious passive title founded upon a quasi delict, cannot be objected against the delinquent's heir, if process has not been litiscontested while the delinquent himself was alive; whereas the *successor titulo lucrativo* is by the acceptance of the disposition understood to have entered into a tacit contract with the granter's creditors, by which he undertakes the burden of their debts; and all actions founded on contract are transmissible against heirs.

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36. An apparent heir, who is cited by the ancestor's creditor in a process for payment, if he offers any peremptory defence against the debt, incurs a passive title; for he can have no interest to object against it, but in the character of heir. In the same manner, the heir's not renouncing upon a charge to enter heir, infers it: But the effect of both these is limited to the special debt pursued for, or charged upon. This passive title, which is inferred from the heir's not renouncing, has no effect till decree pass against him; and even a renunciation offered after decree, if the decree be in absence, will intitle the heir to a suspension of all diligence against his person and estate, competent upon his ancestor's debts.

37. By the principles of the feudal law, an heir, when he is to complete his titles by special service, must necessarily pass over his immediate ancestor, *e. g.* his father, if he was not infest; and serve heir to that ancestor who was last vest and seised in the right, and in whose *hereditas jacens* the right must remain, till a title be connected thereto from him. As this bore hard upon creditors who might think themselves secure in contracting with a person whom they saw for some time in the possession of an estate, and from thence concluded that it was legally vested in him; it is therefore provided by act 1695, that every person, passing over his immediate ancestor who had been three years in possession, and serving heir to one more remote, shall be liable for the debts and deeds of the person interjected, to the value of the estate to which he is served. This being correctory of the feudal maxims, has been strictly interpreted, so as not to extend to the gratuitous deeds of the person interjected, nor to the case where the interjected person was a naked fiar, and possessed only civilly through the liferenter.

38. Our law, from its jealousy of the weakness of mankind while under sickness, and of the importunity of friends on that occasion, has declared that all deeds affecting heritage, if they be granted by a person on deathbed, (*i. e.* after contracting that sickness which ends in death), to the damage of the heir, are ineffectual, except where the debts of the granter have laid him under a necessity to alien his lands. As this law of deathbed is founded solely in the privilege of the heir, deathbed-deeds, when consented to by the heir, are not reducible. The term properly opposed to deathbed is *liege poustie*, by which is understood a state of health; and it gets the name, because persons in health have the *legitima potestas*, or lawful power, of disposing of their property at pleasure.

39. The two extremes being proved, of the granter's sickness immediately before signing, and of his death following it, though at the greatest distance of time, did, by our former law, found a presumption that the deed was granted on deathbed, which could not have been elided but by a positive proof of the granter's convalescence; but now the allegation of deathbed is also excluded, by his having lived 60 days after signing the deed. The legal evidence of convalescence is the granter's having been, after the date of the deed, at kirk OR market unsupported; for a proof of either will secure the deed from challenge. The going to kirk or market must be performed when the people are met together in the church or churchyard for any public meeting, civil or ecclesiastical, or in the mar-

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Scotland.Other pas-
sive titles.Reduction
by the heir
*ex capite
lecti.*What con-
stitutes a
death-bed
deed.

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To what
heirs this
reduction is
competent.

What
rights may
be thus set
aside.

ket-place at the time of public market. No other proof of convalescence is receivable, because at kirk and market there are always present unsuspected witnesses, which we can hardly be sure of in any other case.

40. The privilege of setting aside deeds *ex capite leſſi*, is competent to all heirs, not to heirs of line only, but of conquest, tailzie, or provision; not only to the immediate, but to remoter heirs, as soon as the succession opens to them. But, where it is consented to or ratified by the immediate heir, it is secured against all challenge, even from the remoter. Yet the immediate heir cannot, by any antecedent writing, renounce his right of reduction, and thereby give strength to deeds that may be afterwards granted *in leſſo* to his hurt; for no private renunciation can authorise a person to act contrary to a public law; and such renunciation is presumed to be extorted through the fear of exheredation. If the heir should not use this privilege of reduction, his creditor may, by adjudication, transfer it to himself; or he may, without adjudication, reduce the deed, libelling upon his interest as creditor to the heir: But the granter's creditors have no right to this privilege, in regard that the law of deathbed was introduced, not in behalf of the granter himself, but of his heir.

41. The law of deathbed strikes against dispositions of every subject to which the heir would have succeeded, or from which he would have had any benefit, had it not been so disposed. Deathbed-deeds granted in consequence of a full or proper obligation in *liege pouſſie*, are not subject to reduction; but, where the antecedent obligation is merely natural, they are reducible. By stronger reason, the deceased cannot, by a deed merely voluntary, alter the nature of his estate on deathbed to the prejudice of his heir, so as from heritable to make it moveable; but if he should, in *liege pouſſie*, exclude his apparent heir, by an irrevocable deed containing reserved faculties, the heir cannot be heard to quarrel the exercise of these faculties on deathbed.

42. In a competition between the creditors of the deceased and of the heir, our law (act 1661) has justly preferred the creditors of the deceased, as every man's estate ought to be liable, in the first place, for his own debt. But this preference is, by the statute, limited to the case where the creditors of the deceased have used diligence against their debtor's estate, within three years from his death; and therefore the heir's creditors may, after that period, affect it for their own payment. All dispositions by an heir, of the ancestor's estate, within a year after his death, are null, in so far as they are hurtful to the creditors of the ancestor. This takes place, though these creditors should have used no diligence, and even where the dispositions are granted after the year: It is thought they are ineffectual against the creditors of the deceased who have used diligence within the three years.

clxxx.

SECT. XXI. Of Succession in Moveables.

Moveable
succession
by law.

IN the succession of moveable rights, it is an universal rule, that the next in degree to the deceased (or next of kin) succeeds to the whole; and if there are two or more equally near, all of them succeed by equal parts, without that prerogative, which takes place in

heritage, of the eldest son over the younger, or of males over females. Neither does the right of representation (explained n° clxxx. 4.) obtain in the succession of moveables, except in the single case of a competition between the full blood and the half blood; for a niece by the full blood will be preferred before a brother by the half blood, though she is by one degree more remote from the deceased than her uncle. Where the estate of a person deceased consists partly of heritage, and partly of moveables, the heir in the heritage has no share of the moveables, if there are others as near in degree to the deceased as himself: But where the heir, in such case, finds it his interest to renounce his exclusive claim to the heritage, and betake himself to his right as one of the next of kin, he may collate or communicate the heritage with the others, who in their turn must collate the moveables with him; so that the whole is thrown into one mass, and divided equally among all of them. This doctrine holds, not only in the line of descendants, but of collaterals; for it was introduced, that the heir might in no case be worse than the other next of kin.

2. One may settle his moveable estate upon whom he pleases, excluding the legal successor, by a testament; which is a written declaration of what a person wills to be done with his moveable estate after his death. No testamentary deed is effectual till the death of the testator; who may therefore revoke it at pleasure, or make a new one, by which the first loses its force, according to the rule, *voluntas testatoris est ambulatoria usque ad mortem*; and hence testaments are called *last* or *latter wills*. Testaments, in their strict acceptation, must contain a nomination of executors, *i. e.* of persons appointed to administer the succession according to the will of the deceased: Yet nothing hinders one from making a settlement of moveables, in favour of an universal legatee, though he should not have appointed executors; and on the other part, a testament where executors are appointed is valid, though the person who is to have the right of succession should not be named. In this last case, if the executor nominated be a stranger, *i. e.* one who has no legal interest in the moveable estate, he is merely a trustee, accountable to the next of kin; but he may retain a third of the dead's part (explained par. 6.) for his trouble in executing the testament; in payment of which, legacies, if any be left to him, must be imputed. The heir, if he be named executor, has right to the third as a stranger; but if one be named who has an interest in the legal succession, he has no allowance, unless such interest be less than a third. Nuncupative or verbal testaments are not, by the law of Scotland, effectual for supporting the nomination of an executor, let the subject of the succession be ever so small: But verbal legacies, not exceeding L. 100 Scots, are sustained: and even where they are granted for more, they are ineffectual only as to the excess.

3. A legacy is a donation by the deceased, to be paid by the executor to the legatee. It may be granted either in the testament or in a separate writing. Legacies are not due till the granter's death; and consequently they can transmit no right to the executors of the legatee, in the event that the granter survives him. A case occurred some years ago, where a testator left a legacy payable when the legatee arrived at a certain age. The legatee survived the testator,

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tor, but died before the legacy was payable. It was found, chiefly upon the authority of the Roman law, that the legacy vested in the legatee *a morte testatoris*, and upon his decease was due to the legatee's next of kin.

4. Legacies, where they are general, *i. e.* of a certain sum of money indefinitely, give the legatee no right in any one debt or subject; he can only insist in a personal action against the executor, for payment out of the testator's effects. A special legacy, *i. e.* of a particular debt due to the deceased, or of a particular subject belonging to him, is of the nature of an assignation, by which the property of the special debt or subject vests, upon the testator's death, in the legatee, who can therefore directly sue the debtor or possessor: Yet as no legacy can be claimed till the debts are paid, the executor must be cited in such process, that it may be known, whether there are free effects sufficient for answering the legacy. Where there is not enough for payment of all the legacies, each of the general legatees must suffer a proportional abatement: But a special legatee gets his legacy entire, though there should be nothing over for payment of the rest; and, on the contrary, he has no claim, if the debt or subject bequeathed should perish, whatever the extent of the free executry may be.

Who can
test, and
under what
restrictions.

5. Minors, after puberty, can test without their curators, wives without their husbands, and persons interdicted without their interdictors: but bastards cannot test, except in the cases afterwards set forth, N^o clxxii. 3. As a certain share of the goods, falling under the communion that is consequent on marriage, belongs, upon the husband's decease, to his widow, *jure relicte*, and a certain share to the children, called the *legitime*, *portion natural*, or *bairns part of gear*; one who has a wife or children, though he be the absolute administrator of all these goods during his life, and consequently may alien them by a deed *inter vivos*, in *liege poussie*, even gratuitously, if no fraudulent intention to disappoint the wife or children shall appear, yet cannot impair their shares gratuitously on death-bed; nor can he dispose of his moveables to their prejudice by testament, though it should be made in *liege poussie*; since testaments do not operate till the death of the testator, at which period the division of the goods in communion have their full effect in favour of the widow and children.

Division of
a testa-
ment.

6. If a person deceased leaves a widow, but no child, his testament, or, in other words, the goods in communion, divide in two: one half goes to the widow; the other is the dead's part, *i. e.* the absolute property of the deceased, on which he can test, and which falls to his next of kin, if he dies intestate. Where he leaves children, one or more, but no widow, the children get one half as their legitime: the other half is the dead's part; which falls also to the children, if the father has not tested upon it. If he leaves both widow and children, the division is tripartite: the wife takes one third by herself; another falls, as legitime, to the children equally among them, or even to an only child, though he should succeed to the heritage; the remaining third is the dead's part. Where the wife predeceases without children, one half is retained by the husband, the other falls to her next of kin: Where she leaves children, the division ought also to be bipartite, by the common

rules of society, since no legitime is truly due on a mother's death: yet it is in practice tripartite; two thirds remain with the surviving father, as if one third were due to him *proprio nomine*, and another as administrator of the legitime for his children; the remaining third, being the wife's share, goes to her children, whether of that or any former marriage; for they are all equally her next of kin.

7. Before a testament can be divided, the debts owing by the deceased are to be deducted; for all executry must be free. As the husband has the full power of burdening the goods in communion, his debts affect the whole, and so lessen the legitime and the share of the relict, as well as the dead's part. His funeral charges, and the mournings and alimony due to the widow, are considered as his proper debts; but the legacies, or other gratuitous rights granted by him on death-bed, affect only the dead's part. Bonds bearing interest, due by the deceased, cannot diminish the relict's share, because such bonds, when due to the deceased, do not increase it. The funeral charges of the wife predeceasing, fall wholly on her executors who have right to her share. Where the deceased leaves no family, neither husband, wife, nor child, the testament suffers no division, but all is the dead's part.

8. The whole issue of the husband, not only by that marriage which was dissolved by his death, but by any former marriage, has an equal interest in the legitime; otherwise the children of the first marriage would be cut out, as they could not claim the legitime during their father's life. But no legitime is due, (1.) Upon the death of a mother. (2.) Neither is it due to grandchildren, upon the death of a grandfather. Nor, (3.) To children forisfamiliarized, *i. e.* to such as, by having renounced the legitime, are no longer considered as in *familia*, and so are excluded from any farther share of the moveable estate than they have already received.

9. As the right of legitime is strongly founded in nature, the renunciation of it is not to be inferred by implication. Renunciation by a child of his claim of legitime has the same effect as his death, in favour of the other children intitled thereto; and consequently the share of the renouncer divides among the rest; but he does not thereby lose his right to the dead's part, if he does not also renounce his share in the father's executry. Nay, his renunciation of the legitime, where he is the only younger child, has the effect to convert the whole subject thereof into dead's part, which will therefore fall to the renouncer himself as next of kin, if the heir be not willing to collate the heritage with him. Yet it has been found that the renunciation of the only younger child made the whole legitime accrue to the heir without collation.

Renuncia-
tion of the
legitime.

10. For preserving an equality among all the children who continue intitled to the legitime, we have adopted the Roman doctrine of *collatio bonorum*; whereby the child, who has got a provision from his father, is obliged to collate it with the others, and impute it towards his own share of the legitime; but if from the deed of provision, the father shall appear to have intended it as a *præcipuum* to the child, collation is excluded. A child is not bound to collate an heritable subject provided to him, because the legitime is not impaired by such provision. As this collation takes place only in questions among children who are intitled to

Collation
among
younger
children.

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Scotland.

the legitime, the relict is not bound to collate donations given her by her husband, in order to increase the legitime; and on the other part, the children are not obliged to collate their provisions, in order to increase her share.

Confirma-
tion.

11. As an heir in heritage must complete his titles by entry, so an executor is not vested in the right of the moveable estate of the deceased without confirmation. Confirmation is a sentence of the commissary or bishop's court, empowering an executor, one or more, upon making inventory of the moveables pertaining to the deceased, to recover, possess, and administer them, either in behalf of themselves, or of others interested therein. Testaments must be confirmed in the commissariat where the deceased had his principal dwelling-house at his death. If he had no fixed residence, or died in a foreign country, the confirmation must be at *Edinburgh*, as the *commune forum*; but if he went abroad with an intention to return, the commissariat within which he resided, before he left Scotland, is the only proper court.

12. Confirmation proceeds upon an edict, which is affixed on the door of the parish-church where the deceased dwelt, and serves to intimate to all concerned the day of confirmation, which must be nine days at least after publishing the edict. In a competition for the office of executor, the commissary prefers, *primo loco*, the person named to it by the deceased himself, whose nomination he ratifies or confirms, without any previous decerniture: this is called the confirmation of a testament-testamentary. In default of an executor named by the deceased, universal disponees are by the present practice preferred; after them, the next of kin; then the relict; then creditors; and, lastly, special legatees. All these must be decerned executors, by a sentence called a *decree-dative*; and if afterwards they incline to confirm, the commissary authorises them to administer, upon their making inventory, and giving security to make the subject thereof forthcoming to all having interest; which is called the confirmation of a testament-dative.

Confirma-
tion qua ex-
ecutor-cre-
ditor.

13. A creditor, whose debtor's testament is already confirmed, may sue the executor, who holds the office for all concerned, to make payment of his debt. Where there is no confirmation, he himself may apply for the office, and confirm as executor-creditor; which intitles him to sue for and receive the subject confirmed, for his own payment: and where one applies for a confirmation as executor-creditor, every co-creditor may apply to be conjoined with him in the office. As this kind of confirmation is simply a form of diligence, creditors are exempted from the necessity of confirming more than the amount of their debts.

14. A creditor, whose debt has not been constituted or his claim not closed by decree, during the life of his debtor, has no title to demand directly the office of executor *qua* creditor: but he may charge the next of kin who stands off, to confirm, who must either renounce within twenty days after the charge, or be liable for the debt; and if the next of kin renounces, the pursuer may constitute his debt, and obtain a decree *cognitionis causa*, against the *hereditas jacens* of the moveables, upon which he may confirm as executor-creditor to the deceased. Where one is creditor, not to the deceased, but to his next of kin who stands off from

confirming, he may affect the moveables of the deceased, by obtaining himself decerned executor-dative to the deceased, as if he were creditor to him, and not to his next of kin.

15. Where an executor has either omitted to give up any of the effects belonging to the deceased in inventory, or has estimated them below their just value, there is place for a new confirmation, *ad omiffa, vel male appretiatata*, at the suit of any having interest; and if it appears that he has not omitted or undervalued any subject *dolose*, the commissary will ordain the subjects omitted, or the difference between the estimations in the principal testament and the true values, to be added thereto; but if *dole* shall be presumed, the whole subject of the testament *ad omiffa vel male appretiatata*, will be carried to him who confirms it, to the exclusion of the executor in the principal testament.

16. The legitime and relict's share, because they are rights arising *ex lege*, operate *ipso jure*, upon the father's death, in favour of the relict and children; and consequently pass from them, though they should die before confirmation, to their next of kin: whereas the dead's part, which falls to the children or other next of kin in the way of succession, remains, if they should die before confirming, *in bonis* of the first deceased; and so does not descend to their next of kin, but may be confirmed by the person who, at the time of confirmation, is the next of kin to the first deceased. Special assignments, though neither intimated nor made public during the life of the granter, carry to the assignee the full right of the subjects assigned, without confirmation. Special legacies are really assignments, and so fall under this rule. The next of kin, by the bare possession of the *ipsa corpora* of moveables, acquires the property thereof without confirmation, and transmits it to his executors.

17. The confirmation of any one subject by the next of kin, as it proves his right of blood, has been adjudged to carry the whole executry out of the testament of the deceased, even what was omitted, and to transmit all to his own executors. The confirmation of a stranger, who is executor nominated, as it is merely a trust for the next of kin, has the effect to establish the right of the next of kin to the subjects confirmed, in the same manner as if himself had confirmed them.

18. Executry, though it carries a certain degree of representation of the deceased, is properly an office: how far executors therefore are not subjected to the debts due by the deceased, beyond the value of the inventory; but, at the same time, they are liable in diligence for making the inventory effectual to all having interest. An executor-creditor who confirms more than his debt amounts to, is liable in diligence for what he confirms. Executors are not liable in interest, even upon such bonds recovered by them as carried interest to the deceased, because their office obliges them to retain the sums they have made effectual, in order to a distribution thereof among all having interest. This holds though they should again lend out the money upon interest, as they do it at their own risk.

19. There are certain debts of the deceased called privileged debts, which were always preferable to every other. Under that name are comprehended, medicines furnished to the deceased on deathbed, physicians fees during

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Confirma-
tion *ad omiffa*, &c.

Legitime,
&c. trans-
mit with-
out confir-
mation.

Partial con-
firmation.

Executors
how far
liable.

In what
cases they
may pay
without
sentence.
during

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during that period, funeral charges, and the rent of his house, and his servants wages for the year or term current at his death. These the executors are in safety to pay on demand. All the other creditors, who either obtain themselves confirmed, or who cite the executor already confirmed, within six months after their debtor's death, are preferred, *pari passu*, with those who have done more timely diligence; and therefore no executor can either retain for his own debt, or pay a testamentary debt, so as to exclude any creditor, who shall use diligence within the six months, from the benefit of the *pari passu* preference; neither can a decree for payment of debt be obtained, in that period, against an executor, because, till that term be elapsed, it cannot be known how many creditors may be intitled to the fund in his hands. If no diligence be used within the six months, the executor may retain for his own debt, and pay the residue *primo venienti*. Such creditors of the deceased as have used diligence within a year after their debtor's death, are preferable on the subject of his testament to the creditors of his next of kin.

Vicious in-
tromission.

20. The only passive title in moveables is vicious intromission; which may be defined, an unwarrantable intermeddling with the moveable estate of a person deceased, without the order of law. This is not confined, as the passive titles in heritage are, to the persons interested in the succession, but strikes against all intromitters whatever. Where an executor confirmed intromits with more than he has confirmed, he incurs a passive title; fraud being in the common case presumed from his not giving up in inventory the full subject intermeddled with. Vicious intromission is also presumed, where the repositories of a dying person are not sealed up, as soon as he becomes incapable of sense, by his nearest relations; or, if he dies in a house not his own, they must be sealed by the master of such house, and the keys delivered to the judge-ordinary, to be kept by him, for the benefit of all having interest.

21. The passive title of vicious intromission does not take place where there is any probable title or circumstance that takes off the presumption of fraud. In consequence of this rule, necessary intromission, or *custodia causa*, by the wife or children, who only continue the possession of the deceased, in order to preserve his goods for the benefit of all concerned, infers no passive title. And, upon the same principle, an intromitter, by confirming himself executor, and thereby subjecting himself to account, before action be brought against him on the passive titles, purges the vitiosity of his prior intromission: and where the intromitter is one who is interested in the succession, *e. g.* next of kin, his confirmation, at any time within a year from the death of the deceased, will exclude the passive title, notwithstanding a prior citation. As this passive title was intended only for the security of creditors, it cannot be sued upon by legatees; and since it arises *ex delicto*, it cannot be pleaded against the heir of the intromitter. As in delicts, any one of many delinquents may be subjected to the whole punishment, so any one of many intromitters may be sued *in solidum* for the pursuer's debt, without calling the rest; but the intromitter who pays, has an action of relief against the others for their share of it. If the intromitters are sued jointly, they

are liable, not *pro rata* of their several intromissions, but *pro virili*.

28. The whole of a debtor's estate is subjected to the payment of his debts; and therefore, both his heirs and executors are liable for them, in a question with creditors: but as succession is by law divided into the heritable and the moveable estate, each of these ought, in a question between the several successors, to bear the burdens which naturally affect it. Action of relief is accordingly competent to the heir who has paid a moveable debt, against the executor; and *vice versa*. This relief is not cut off by the deceased's having disposed either his land-estate or his moveables, with the burden of his whole debts; for such burden is not to be construed as an alteration of the legal succession, but merely as a farther security to creditors, unless the contrary shall be presumed from the special style of the disposition.

IV. OF LAST HEIRS AND BASTARDS.

clxxxv

By our ancient practice, feudal grants taken to the vassal, and to a special order of heirs, without settling the last termination upon *heirs whatsoever*, returned to the superior, upon failure of the special heirs therein contained: but now that feus are become patrimonial rights, the superior is, by the general opinion, held to be fully divested by such grant, and the right descends to the vassal's heirs at law. And even where a vassal dies without leaving any heir who can prove the remotest propinquity to him, it is not the superior, as the old law stood, but the king, who succeeds as last heir, both in the heritable and moveable estate of the deceased, in consequence of the rule, *Quod nullius est, cedit domino Regi*.

2. If the lands, to which the king succeeds, be holden immediately of himself, the property is consolidated with the superiority, as if resignation had been made in the sovereign's hands. If they are holden of a subject, the king, who cannot be vassal to his own subject, names a donatory; who, to complete his title, must obtain a decree of declarator; and thereafter he is presented to the superior, by letters of presentation from the king under the quarter-seal, in which the superior is charged to enter the donatory. The whole estate of the deceased is, in this case, subjected to his debts, and to the widow's legal provisions. Neither the king nor his donatory is liable beyond the value of the succession. A person who has no heir to succeed to him, cannot alien his heritage *in leito*, to the prejudice of the king, who is intitled to set aside such deed, in the character of *ultimus heres*.

3. A bastard can have no legal heirs, except those of his own body; since there is no succession but by the father, and a bastard has no certain father. The king therefore succeeds to him, failing his lawful issue, as last heir. Though the bastard, as absolute proprietor of his own estate, can dispose of his heritage in *liege poultie*, and of his moveables by any deed *inter vivos*; yet he is disabled, *ex defectu natalium*, from bequeathing by testament, without letters of legitimation from the sovereign. If the bastard has lawful children, he may test without such letters, and name tutors and curators to his issue. Letters of legitimation, let their clauses be ever so strong, cannot enable the bastard

Law of
Scotland.Mutual re-
lief betwixt
the heir and
the executor.Where
there is no
heir, the
king suc-
ceeds.King suc-
ceeds as
ultimus heres
to the bas-
tard.

Law of
Scotland.

Bastards
incapable
of legal, but
not of de-
stined, suc-
cession.

bastard to succeed to his natural father, to the exclu-
sion of lawful heirs.

4. The legal rights of succession, being founded in marriage, can be claimed only by those who are born in lawful marriage; the issue therefore of an unlawful marriage are incapable of succession. A bastard is excluded, (1.) From his father's succession; because law knows no father who is not marked out by marriage. (2.) From all heritable succession, whether by the father or mother; because he cannot be pronounced lawful heir by the inquest, in terms of the brief. And, (3.) From the moveable succession of his mother; for though the mother be known, the bastard is not her lawful child, and legitimacy is implied in all succession conferred by law. A bastard, though he cannot succeed *jure sanguinis*, may succeed by destination, where he is specially called to the succession by an entail or testament.

Aliens can-
not succeed
in feudal
rights;

nor Papists.

5. Certain persons, though born in lawful marriage, are incapable of succession. Aliens are, from their allegiance to a foreign prince, incapable of succeeding in feudal rights, without naturalization. Children born in a foreign state, whose fathers were natural born subjects, and not attainted, are held to be natural born subjects. Persons educated in, or professing, the Popish religion, if they shall neglect, upon their attaining the age of 15, to renounce its doctrines by a signed declaration, cannot succeed in *heritage*; but must give place to the next Protestant heir, who will hold the estate irredeemably, if the Popish heir does not, within ten years after incurring the irritancy, sign the *formula* prescribed by the statute 1700, c. 3.

C H A P. III.

Of ACTIONS.

HITHERTO of *Persons and Rights*, the two first objects of law: *Actions* are its third object, whereby persons make their rights effectual.

elxxxiii. SECT. I. *Nature, division, &c. of actions.*

An action,
what.

AN action may be defined, A demand regularly made and insisted in, before the judge competent, for the attaining or recovering of a right; and it suffers several divisions, according to the different natures of the rights pursued upon.

Division of
actions.

2. Actions are either real or personal. A real action is that which arises from a right in the thing itself, and which therefore may be directed against all possessors of that thing: thus, an action for the recovery, even of a moveable subject, when founded on a *jus in re*, is in the proper acceptation real; but real actions are, in vulgar speech, confined to such as are directed against heritable subjects. A personal action is founded only on an obligation undertaken for the performance of some fact, or the delivery of some subject; and therefore can be carried on against no other than the person obliged, or his heirs.

3. Actions, again, are either ordinary or rescissory. All actions are, in the sense of this division, ordinary, which are not rescissory. Rescissory actions are divided, (1.) Into actions of proper improbation. (2.)

Actions of reduction improbation. (3.) Actions of simple reduction. Proper improbations, which are brought for declaring writings false or forged, are noticed below, N° clxxxvi. 32. Reduction-improbation is an action, whereby a person who may be hurt or affected by a writing, insists for producing or exhibiting it in court, in order to have it set aside, or its effect ascertained, under the certification that the writing, if not produced, shall be declared false and forged. This certification is a fiction of law, introduced that the production of writings may be the more effectually forced, and therefore it operates only in favour of the pursuer. Because the summons in this action proceeds on alleged grounds of falsehood, his majesty's advocate, who is the public prosecutor of crimes, must concur in it.

4. As the certification in this process draws after it so heavy consequences, two terms are assigned to the defenders for production. After the second term is elapsed, intimation must be made judicially to the defender, to satisfy the production within ten days; and till these are expired, no certification can be pronounced. Certification cannot pass against deeds recorded in the books of session, if the defender shall, before the second term, offer a condescendence of the dates of their registration, unless falsehood be objected: in which case, the original must be brought from the record to the court. But an extract from the inferior court is no bar to certification; the principal writing must be laid before the court of session on a proper warrant.

5. In an action of simple reduction the certification is only temporary, declaring the writings called for null, until they be produced; so that they recover their full force after production, even against the pursuer himself; for which reason, that process is now seldom used. Because its certification is not so severe as in reduction-improbation, there is but one term assigned to the defender for producing the deeds called for.

6. The most usual grounds of reduction of writings are, the want of the requisite solemnities; that the granter was minor, or interdicted, or inhibited; or that he signed the deed on death-bed, or was compelled or frightened into it, or was circumvented; or that he granted it in prejudice of his lawful creditors.

7. In reductions on the head of force, or fear, or fraud and circumvention, the pursuer must libel the particular circumstances from which his allegation is to be proved. Reduction is not competent upon every degree of force or fear; it must be such as would shake a man of constancy and resolution. Neither is it competent, on that fear which arises from the just authority of husbands or parents over their wives or children, nor upon the fear arising from the regular execution of lawful diligence by caption, provided the deeds granted under that fear relate to the ground of debt contained in the diligence; but if they have no relation to that debt, they are reducible *ex metu*.

8. Alienations granted by debtors after contracting of lawful debts, in favour of conjunct or confident persons, without just and necessary causes, and without a just price really paid, are, by the act 1621, declared to be null. One is deemed a prior creditor, whose ground of debt existed before the right granted by

Law of
Scotland.

Reduction-
improbation.

Grounds of
reduction.

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Scotland.

by the debtor; though the written voucher of the debt should bear a date posterior to it. Persons are accounted conjunct, whose relation to the granter is so near, as to bar them from judging in his cause. Confident persons are those who appear to be in the granter's confidence, by being employed in his affairs, or about his person; as a doer, steward, or domestic servant.

9. Rights, though gratuitous, are not reducible, if the granter had, at the date thereof, a sufficient fund for the payment of his creditors. Provisions to children are, in the judgment of law, gratuitous; so that their effect, in a question with creditors, depends on the solvency of the granter: but settlements to wives, either in marriage-contracts, or even after marriage, are onerous, in so far as they are rational; and consequently are not reducible, even though the granter was insolvent. This rule holds also in rational tochers contracted to husbands: But it must, in all cases, be qualified with this limitation, *if the insolvency of the granter was not publicly known*; for if it was, fraud is presumed in the receiver of the right, by contracting with the bankrupt.

10. The receiver of the deed, if he be a conjunct or confident person, must instruct or support the onerous cause of his right, not merely by his own oath, but by some circumstances or adminicles. But where a right is granted to a stranger, the narrative of it expressing an onerous cause, is sufficient *per se* to secure it against reduction.

11. All voluntary payments or rights made by a bankrupt to one creditor, to disappoint the more timeous diligence of another, are reducible at the instance of that creditor who has used the prior diligence. A creditor, though his diligence be but begun by citation, may insist in a reduction of all posterior voluntary rights granted to his prejudice; but the creditor who neglects to complete his begun diligence within a reasonable time, is not intitled to reduce any right granted by the debtor, after the time that the diligence is considered as abandoned.

12. A prohibited alienation, when conveyed by the receiver to another who is not privy to the fraud, subsists in the person of the *bona fide* purchaser. In the case of moveable rights, this nullity is receivable by exception; but it must be declared by reduction, where the right is heritable.

13. By act 1696, c. 5. all alienations by a bankrupt, within 60 days before his bankruptcy, to one creditor in preference to another, are reducible, at the instance even of such co-creditors as had not used the least step of diligence. A bankrupt is there described by the following characters; diligence used against him by horning and caption; and insolvency, joined either with imprisonment, retiring to the sanctuary, absconding, or forcibly defending himself from diligence. It is sufficient that a caption is raised against the debtor, though it be not executed, provided he has retired to shun it. And by the late bankrupt statute 23d Geo. III. it is declared, that in all actions and questions arising upon the construction and effect of the act 1696; when a debtor is out of Scotland, or not liable to be imprisoned by reason of privilege or personal protection, a charge of horning executed against him, together with either an arrest-

ment of any of his personal effects not loosed or discharged within fifteen days, or a poinding executed of any of his moveables, or a decree of adjudication of any part of his heritable estate, or sequestration by the act of a proper court, of all or any part of his estate or effects, heritable or moveable, for payment of debt, shall, when joined with insolvency, be held as sufficient proof of notour bankruptcy; and from and after the last step of such diligence, the said debtor, if insolvent, shall be held bankrupt. It is provided (by said act 1696), that all heritable bonds or rights on which seisin may follow, shall be reckoned, in a question with the granter's other creditors upon this act, to be of the date of the seisin following thereon. But this act was found to relate only to securities for former debts, and not to *nova debita*.

14. Actions are divided into *rei persecutoria*, and *penales*. By the first, the pursuer insists barely to recover the subject that is his, or the debt due to him: and this includes the damage sustained; for one is as truly a sufferer in his patrimonial interest by that damage, as by the loss of the subject itself. In penal actions, which always arise *ex delicto*, something is also demanded by way of penalty.

15. Actions of spuilzie, ejection, and intrusion, are penal. An action of spuilzie is competent to one dispossessed of a moveable subject violently, or without order of law, against the person dispossessing: not only for being restored to the possession of the subject, if extant, or for the value, if it be destroyed, but also for the violent profits, in case the action be brought within three years from the spoliation. Ejection and intrusion are, in heritable subjects, what spuilzie is in moveables. The difference between the two first is, that in ejection, violence is used; whereas the intruder enters into the void possession, without either a title from the proprietor, or the warrant of a judge. The actions arising from all the three are of the same general nature.

16. The action of contravention of law-borrows is also penal. It proceeds on letters of law-borrows, (from *borgh*, a cautioner), which contain a warrant to charge the party complained upon, that he may give security not to hurt the complainer in his person, family, or estate. These letters do not require the previous citation of the party complained upon, because the caution which the law requires is only for doing what is every man's duty; but, before the letters are executed against him, the complainer must make oath that he dreads bodily harm from him. The penalty of contravention is ascertained to a special sum, according to the offender's quality; the half to be applied to the risk, and the half to the complainer. Contravention is not incurred by the uttering of reproachful words, where they are not accompanied, either with acts of violence, or at least a real injury; and as the action is penal, it is elided by any probable ground of excuse.

17. Penalties are the consequences of delict, or transgression; and as no heir ought to be accountable for the delict of his ancestor, farther than the injured person has really suffered by it, penal actions die with the delinquent, and are not transmissible against heirs. Yet the action, if it has been commenced and litigated in the delinquent's lifetime, may be continued.

Law of
Scotland.Actions of
rei per-
secutoria, or
penal.

Spuilzie.

Contraven-
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borrows.Penal ac-
tions, whe-
ther trans-
missible a-
gainst the
pursuer.

Law of
Scotland.Law of
Scotland.

nued against the heir, though the delinquent should die during the dependence. Some actions are *rei persecutorie* on the part of the pursuer, when he insists for simple restitution; which yet may be penal in respect of the defender: e. g. the action on the passive title of vitious intromission, by which the pursuer frequently recovers the debt due to him by the deceased, tho' it should exceed the value of the goods intermeddled with by the defenders.

Actions pe-
titory,

18. The most celebrated division of actions in our law is into *petitory*, *possessory*, and *declaratory*. *Petitory* actions are those, where something is demanded from the defender, in consequence of a right of property, or of credit in the pursuer: Thus, actions for restitution of moveables, actions of poinding, of forthcoming, and indeed all personal actions upon contracts or quasi-contracts, are *petitory*. *Possessory* actions are those which are founded, either upon possession alone, as spuilzies; or upon possession joined with another title, as removings; and they are competent either for getting into possession, for holding it, or for recovering it; analogous to the interdicts of the Roman law, *quorum bonorum, uti possidetis*, and *unde vi*.

Of molesta-
tion.

16. An action of molestation is a *possessory* action, competent to the proprietor of a land-estate, against those who disturb his possession. It is chiefly used in questions of commonry, or of controverted marches. Where a declarator of property is conjoined with a process of molestation, the session alone is competent to the action. Actions on brieves of perambulation, have the same tendency with molestations, viz. the settling of marches between conterminous lands.

Of mails
and duties.

20. The actions of mails and duties is sometimes *petitory*, and sometimes *possessory*. In either case, it is directed against the tenants and natural possessors of land-estates, for payment to the pursuer of the rents remaining due by them for past crops, and of the full rent for the future. It is competent, not only to a proprietor whose right is perfected by seisin, but to a simple disponee, for a disposition of lands includes a right to the mails and duties; and consequently to an adjudger, for an adjudication is a judicial disposition.

Petitory.

In the *petitory* action, the pursuer, since he founds upon right, not possession, must make the proprietor, from whom the tenants derive their right, party to the suit; and he must support his claim by titles of property or diligences, preferable to those in the person of his competitor.

Possessory.

In the *possessory*, the pursuer who libels that he, his ancestors, or authors, have been seven years in possession, and that therefore he has the benefit of a *possessory* judgment, need produce no other title than a seisin, which is a title sufficient to make the possession of heritage lawful; and it is enough, if he calls the natural possessors, though he should neglect the proprietor. A *possessory* judgment founded on seven years possession, in consequence either of a seisin or a tack, has this effect, that though one should claim under a title preferable to that of the possessor, he cannot compete with him in the possession, till in a formal process of reduction he shall obtain the possessor's title declared void.

Possessory
judgment.Declara-
tory action.

21. A *declaratory* action is that, in which some right is craved to be declared in favour of the pursuer, but nothing sought to be paid or performed by the defender, such as declarators of marriage, of irritancy, of
N^o 178.

expiry of the legal reversion, &c. Under this class may be also comprehended rescissory actions, which, without any personal conclusion against the defender, tend simply to set aside the rights or writings libelled, in consequence of which a contrary right or immunity arises to the pursuer. Decrees upon actions that are properly declaratory confer no new right; they only declare what was the pursuer's right before, and so have a retrospect to the period at which that right first commenced. Declarators, because they have no personal conclusion against the defender, may be pursued against an apparent heir without a previous charge given him to enter to his ancestor; unless where special circumstances require a charge.

22. An action for proving the tenor, whereby a writing, which is destroyed or amissing, is endeavoured to be revived, is in effect declaratory. In obligations that are extinguishable barely by the debtor's retiring or cancelling them, the pursuer, before a proof of the tenor is admitted, must condescend on such a *casus amissionis*, or accident by which the writing was destroyed, as shows it was lost when in the creditor's possession; otherwise bonds that have been cancelled by the debtor on payment, might be reared up as still subsisting against him: But in writings which require contrary deeds to extinguish their effect, as assignations, dispositions, charters, &c. it is sufficient to libel that they were lost, even *casu fortuito*.

Action for
proving the
tenor.

23. Regularly, no deed can be revived by this action, Adminicles without some adminicle in writing, referring to that in writing which is libelled; for no written obligation ought to be raised up barely on the testimony of witnesses. If these adminicles afford sufficient conviction that the deed libelled did once exist, the tenor is admitted to be proved by witnesses, who must depose, either that they were present at signing the deed, or that they afterwards saw it duly subscribed. Where the relative writings contain all the substantial clauses of that which is lost, the tenor is sometimes sustained without witnesses. In a writing which is libelled to have contained uncommon clauses, all these must appear by the adminicles. Actions of proving the tenor are, on account of their importance, appropriated to the court of session; and, by the old form, the testimony of the witnesses could not be received but in presence of all the judges.

24. The action of double or multiple poinding may be also reckoned *declaratory*. It is competent to a debtor, who is distressed, or threatened with distress, by two or more persons claiming right to the debt, and who therefore brings the several claimants into the field, in order to debate and settle their several preferences, that so he may pay securely to him whose right shall be found preferable. This action is daily pursued by an arrestee, in the case of several arrestments used in his hands for the same debt; or by tenants in the case of several adjudgers, all of whom claim right to the same rents. In these competitions, any of the competitors may bring an action of multiple-poinding in name of the tenants, or other debtors, without their consent, or even though they should disclaim the process; since the law has introduced it as the proper remedy for getting such competitions determined: And while the subject in controversy continues *in medio*, any third person who conceives he has a right to it, may, though

Multiple-
poinding.

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Scotland.

though he should not be cited as a defender, produce his titles, as if he were an original party to the suit, and will be admitted for his interest in the competition. By the foresaid bankrupt statute, however, it is competent, in the case of a forthcoming or multiple-poining raised on an arrestment used within thirty days prior, or four kalendar months subsequent to a bankruptcy, for any other creditor producing his interest, and making his claim, in the process at any time before the expiration of the four months, to be ranked in the same manner as if he had used the form of arrestment.

Accessory
actions.

25. Certain actions may be called *accessory*, because they are merely preparatory or subservient to other actions. Thus, exhibitions *ad deliberandum*, at the instance of an heir against the creditors or custodiers of his ancestor's writings, are intended only to pave the way for future processes. An action of *transference* is also of this sort, whereby an action, during the pendency of which the defender happens to die, is craved to be transferred against his representative, in the same condition in which it stood formerly. Upon the pursuer's death his heir may insist in the cause against the defender, upon producing either a retour or a confirmed testament, according as the subject is heritable or moveable. Transferences being but incidental to other actions, can be pronounced by that inferior judge alone before whom the principal cause depended; but where the representatives of the deceased live in another territory, it is the supreme court must transfer. Obligations may now be registered summarily after the creditor's death; which before was not admitted, without a separate process of registration, to which the granter was necessarily to be made a party.

Transfe-
rence.

Wakening.

26. A process of *wakening* is likewise accessory. An action is said to sleep, when it lies over not insisted in for a year, in which case its effect is suspended: but even then it may, at any time within the years of prescription, be revived or awakened by a summons, in which the pursuer recites the last step of the process, and concludes that it may be again carried on as if it had not been discontinued. An action that stands upon any of the inner-house rolls cannot sleep; nor an action in which decree is pronounced, because it has got its full completion: Consequently the decree may be extracted after the year, without the necessity of a wakening.

Tran-
sumpt.

27. An action of *transumpt* falls under the same class. It is competent to those who have a partial interest in writings that are not in their own custody, against the possessors thereof, for exhibiting them, that they may be transumed for their behoof. Tho' the ordinary title in this process be an obligation by the defender to grant transumps to the pursuer, it is sufficient if the pursuer can show that he has an interest in the writings; but in this case, he must transume them on his own charges. Actions of transumpt may be pursued before any judge-ordinary. After the writings to be transumed are exhibited, full duplicates are made out, collated, and signed, by one of the clerks of court, which are called *transumps*, and are as effectual as an extract from the register.

Brieves.

28. Actions proceeded anciently upon brieves issuing from the chancery, directed to the justiciary or judge-ordinary, who tried the matter by a jury, upon whose verdict judgment was pronounced: And to this

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day we retain certain brieves, as of *inquest*, *terce*, *idiotry*, *tutory*, *perambulation*, and perhaps two or three others: But summonses were, immediately upon the institution of the college of justice, introduced in the place of brieves. A summons, when applied to actions pursued before the session, is a writ in the king's name, issuing from his signet upon the pursuer's complaint, authorising messengers to cite the defender to appear before the court and make his defences; with certification, if he fail to appear, that decree will be pronounced against him in terms of the certification of the summons.

Law of
Scotland.
Summonses.

29. The days indulged by law to a defender, between his citation and appearance, to prepare for his defence, are called *induciae legales*. If he is within the kingdom, 21 and 6 days, for the first and second diets of appearance, must be allowed him for that purpose; and if out of it, 60 and 15. Defenders residing in Orkney or Zetland must be cited on 40 days. In certain summonses which are privileged, the *induciae* are shortened: Spuilzies and ejections proceed on 15 days; wakenings and transferences, being but incidental, on six; (see the list of privileged summonses, in act of sederunt June 29th 1672.) A summons must be executed, *i. e.* served against the defender, so as the last diet of appearance may be within a year after the date of the summons; and it must be called within a year after that diet, otherwise it falls for ever. Offence against the authority of the court, acts of malversation in office by any member of the college of justice, and acts of violence and oppression committed during the dependence of a suit by any of the parties, may be tried without a summons, by a summary complaint.

Induciae 120
gales.

30. Though the Romans acknowledged a concurrence of actions in their proceedings, it is not known in the law of Scotland. Therefore, where an action is in part penal, *e. g.* a removing, spuilzie, &c. a pursuer who restricts his demand to, and obtains a decree merely for, restitution, cannot thereafter bring a new process for the violent profits. Yet the same fact may be the foundation both of a criminal and civil action, because these two are intended for different purposes; the one for satisfying the public justice, the other for indemnifying the private party: And though the defender should be absolved in the criminal trial, for want of evidence, the party injured may bring an action *ad civilem effectum*, in which he is intitled to refer the libel to the defender's oath.

Concourse
of actions.

31. One libel or summons may contain different conclusions on the same ground of right, rescissory, declaratory, petitory, &c. if they be not repugnant to each other: Nay, though different sums be due to one, upon distinct grounds of debt, or even by different debtors, the creditor may insist against them all in the same summons.

Accumula-
tion of ac-
tions.

32. Defences are pleas offered by a defender for eluding an action. They are either *dilatory*, which do not enter into the cause itself, and so can only procure an absolvitor from the *lis pendens*: Or *peremptory*, which entirely cut off the pursuer's right of action. The first, because they relate to the forms of proceeding, must be offered *in limine judicii*, and all of them at once. But peremptory defences may be proponed at any time before sentence. By a late act of sederunt,

Defences.

Law of
Scotland.Law of
Scotland.

however (1787), all defences, both dilatory and peremptory, so far as they are known, must be proponed at returning the summons, under a penalty; and the same enactment extends to the cases of suspensions and advocations. The writings to be founded upon by the parties also must be produced; the intention of the court, in framing the act of federunt, being to accelerate as much as possible the decision of causes.

Litifcontestation.

33. A cause, after the parties had litigated it before the judge, was said by the Romans to be litifcontested. By litifcontestation a judicial contract is understood to be entered into by the litigants, by which the action is perpetuated against heirs, even when it arises *ex delicto*. By our law, litifcontestation is not formed till an act is extracted, admitting the libel or defences to proof.

clxxxiv.

SECT. II. *Of Probation.*

Probation,

ALL allegations by parties to a suit, must be supported by proper proof. Probation is either by writing, by the party's own oath, or by witnesses. In the case of allegations, which may be proved by either of the three ways, a proof is said to be admitted *prout de jure*; because, in such case, all the legal methods of probation are competent to the party; if the proof he brings by writing be lame, he may have recourse either to witnesses or to his adversary's oath; but, if he should first take himself to the proof by oath, he cannot thereafter use any other probation (for the reason assigned par. 3.); and, on the contrary, a pursuer who has brought a proof by witnesses, on an extracted act, is not allowed to recur to the oath of the defender. Single combat, as a sort of appeal to Providence, was, by our ancient law, admitted as evidence, in matters both civil and criminal. It was afterwards restricted to the case of such capital crimes where no other proof could be had; some traces of this blind method of trial remained even in the reign of James VI. who, by 1600, c. 12. might authorise duels on weighty occasions.

prout de jure;by single
combat;

by writing.

2. As obligations or deeds signed by the party himself, or his ancestors or authors, must be, of all evidence, the least liable to exception; therefore every debt or allegation may be proved by proper evidence in writing. The solemnities essential to probative deeds have been already explained, (n^o clxxxiv. 3. *et seq.*) Books of account kept by merchants, tradesmen, and other dealers in business, though not subscribed, are probative against him who keeps them; and, in case of furnishings by a shop keeper, such books, if they are regularly kept by him, supported by the testimony of a single witness, afford a *sempierna probatio* in his favour, which becomes full evidence by his own oath in supplement. Notarial instruments and executions by messengers bear full evidence, that the solemnities therein set forth were used, not to be invalidated otherwise than by a proof of falsehood; but they do not prove any other extrinsic facts therein averred, against third parties.

Probation
oath of party
in reference.

3. Regularly, no person's right can be proved by his own oath, nor taken away by that of his adversary; because these are the bare averments of parties in their own favour. But, where the matter in issue is referred by one of the parties to the oath of the other, such oath, though made in favour of the deponent himself, is decisive of the point; because the reference is a vir-

tual contract between the litigants, by which they are understood to put the issue of the cause upon what shall be depose: and this contract is so strictly regarded, that the party who refers to the oath of the other cannot afterwards, in a civil action, plead upon any deed against the party deposing, inconsistent with his oath. To obviate the snares that may be laid for perjury, he, to whose oath of verity a point is referred, may refuse to depose, till his adversary swear that he can bring no other evidence in proof of his allegation.

4. A defender, though he cannot be compelled to swear to facts in a libel properly criminal; yet may, in trespasses, where the conclusion is limited to a fine, or to damages. In general, an oath of party cannot either hurt or benefit third parties; being, as to them, *res inter alios acta*.

5. An oath upon reference is sometimes qualified by special limitations restricting it. The qualities which are admitted by the judge as part of the oath, are called *intrinsic*; those which the judge rejects or separates from the oath, *extrinsic*. Where the quality makes a part of the allegation which is revelantly referred to oath, it is intrinsic. Thus, because a merchant, suing for furnishings after the three years, must, in order to make a relevancy, offer to prove by the defender's oath, not only the delivery of the goods, but that the price is still due; therefore, though the defender should acknowledge upon oath his having received the goods, yet, if he adds, that he paid the price, this last part being a denial that the debt subsists, is intrinsic, since it is truly the point referred to oath. Where the quality does not import an extinction of the debt, but barely a counter-claim, or *mutua petitio*, against the pursuer, it is held as extrinsic, and must be proved *aliunde*. Neither can a defender who in his oath admits the constitution of a debt, get off by adjecting the quality of payment, where the payment ought by its nature to be vouched by written evidence.

6. Oaths of verity are sometimes referred by the judge to either party, *ex officio*; which, because they are not founded on any implied contract between the litigants, are not finally decisive, but may be traversed on proper evidence afterwards produced. These oaths are commonly put by the judge for supplying a lame or imperfect proof, and are therefore called *oaths in supplement*. (See par. 2.)

Oaths in
supplement

7. To prevent groundless allegations, oaths of calumny have been introduced, by which either party may demand his adversary's oath, that he believes the fact contained in his libel or defences to be just and true. As this is an oath, not of verity, but only of opinion, the party who puts it to his adversary does not renounce other probation; and therefore no party is bound to give an oath of calumny, on recent facts of his own, for such oath is really an oath of verity. These oaths have not been so frequent since the act of federunt, Feb. 1. 1715, whereby any party, against whom a fact shall be alleged, is obliged, without making oath, to confess or deny it; and, in case of calumnious denial, is subjected to the expence that the other party has thereby incurred.

Oath of
calumny.

8. In all oaths, whether of verity or calumny, the citation carries, or at least implies, a certification, that if the party does not appear at the day assigned for deposing, he shall be held *pro confesso*; from a presumption

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Scotland.

A non me-
mini oath.

Oath in li-
tem.

Probation
by witnes-
ses, in
what cases
rejected,

in what ad-
mitted.

What per-
sons rejec-
ted as wit-
nesses.

tion of his consciousness, that the fact upon which he declines to swear makes against him; but no party can be held *pro confesso*, if he be in the kingdom, without a previous personal citation used against him. Though an oath which resolves into a *non memini*, cannot be said to prove any point; yet where one so deposes upon a recent fact, to which he himself was privy, his oath is considered as a dissembling of the truth, and he is held *pro confesso*, as if he had refused to swear.

9. An oath *in litem*, is that which the judge refers to a pursuer, for ascertaining either the quantity or the value of goods which have been taken from him by the defender without order of law, or the extent of his damages. An oath *in litem*, as it is the affirmation of a party in his own behalf, is only allowed where there is proof that the other party has been engaged in some illegal act, or where the public policy has made it necessary, (see n° clxxiii. 11.) This oath, as to the quantities, is not admitted, where there is a concurring testimony of witnesses brought in proof of it. When it is put as to the value of goods, it is only an oath of credulity; and therefore it has always been subject to the modification of the court.

10. The law of Scotland rejects the testimony of witnesses, (1.) In payment of any sum above L. 100 Scots, all which must be proved either *scripto vel juramento*. (2.) In all gratuitous promises, though for the smallest trifle. (3.) In all contracts, where writing is either essential to their constitution, (see n° clxxiv. 2.) or where it is usually adhibited, as in the borrowing of money. And it is a general rule, subject to the restrictions mentioned in the next par. that no debt or right, once constituted by writing, can be taken away by witnesses.

11. On the other part, probation by witnesses is admitted to the extent of L. 100 Scots, in payments, nuncupative legacies, and verbal agreements which contain mutual obligations. And it is received to the highest extent, (1.) In all bargains which have known engagements naturally arising from them, concerning moveable goods. (2.) In facts performed in satisfaction, even of a written obligation, where such obligation binds the party precisely to the performance of them. (3.) In facts which with difficulty admit of a proof by writing, even though the effect of such proof should be the extinction of a written obligation, especially if the facts import fraud or violence; thus, a bond is reducible *ex dolo*, on a proof by witnesses. Lastly, all intromission by a creditor with the rents of his debtor's estate payable in grain, may be proved by witnesses; and even intromission with the silver-rent, where the creditor has entered into the total possession of the debtor's lands.

12. No person, whose near relation to another bars him from being a judge in his cause, can be admitted as a witness for him; but he may against him, except a wife or child, who cannot be compelled to give testimony against the husband or parent, *ob reverentiam personæ, et metum perjurii*. Though the witness, whose propinquity to one of the parties is objected to, be as nearly related to the other, the objection stands good.

13. The testimony of infamous persons is rejected, *i. e.* persons who have been guilty of crimes that law declares to infer infamy, or who have been declared infamous by the sentence of a judge; but *infamia facti*

does not disqualify a witness. Pupils are inhabile witnesses; being, in the judgment of law, incapable of the impressions of an oath. And in general witnesses otherwise exceptionable may, where there is a penury of witnesses arising from the nature or circumstances of the fact, be received *cum nota*; that is, their testimony, though not quite free from suspicion, is to be conjoined with the other evidence, and to have such weight given it as the judge shall think it deserves.

14. All witnesses, before they are examined in the cause, are purged of partial counsel; that is, they must declare, that they have no interest in the suit, nor have given advice how to conduct it; that they have got neither bribe nor promise, nor have been instructed how to depose; and that they bear no enmity to either of the parties. These, because they are the points put to a witness before his making oath, are called *initialia testimonii*. Where a party can bring present proof of a witness's partial counsel, in any of the above particulars, he ought to offer it before the witness be sworn; but, because such objection, if it cannot be instantly verified, will be no bar to the examination, law allows the party in that case to protest for *reprobator*, before the witness is examined; *i. e.* that he may be afterwards allowed to bring evidence of his enmity, or other inability. Reprobator is competent even after sentence, where protestation is duly entered; but in that case, the party insisting must consign L. 100 Scots, which he forfeits if he succumb. This action must have the concurrence of the king's advocate, because the conclusion of it imports perjury; and for this reason, the witness must be made a party to it.

15. The interlocutory sentence or warrant, by which parties are authorized to bring their proof, is either by way of act, or of incident diligence. In an act, the lord ordinary who pronounces it is no longer judge in the process; but in an incident diligence, which is commonly granted upon special points, that do not exhaust the cause, the lord ordinary continues judge. If a witness does not appear at the day fixed by the warrant of citation, a second warrant is granted of the nature of a caption, containing a command to messengers to apprehend and bring him before the court. Where the party to whom a proof is granted, brings none within the term allowed by the warrant, an interlocutor is pronounced, circumducing the term, and precluding him from bringing evidence thereafter. Where evidence is brought, if it be upon an act, the lord ordinary on the acts, after the term for proving is elapsed, declares the proof concluded; and thereupon a state of the case is prepared by the ordinary on concluded causes, which must be judged by the whole lords; but if the proof be taken upon an incident diligence, the import of it may be determined by the lord ordinary in the cause.

16. Where facts do not admit a direct proof, presumptions are received as evidence which in many cases, make as convincing a proof as the direct. Presumptions are consequences deduced from facts known or proved, which infer the certainty, or at least a strong probability, of another fact to be proved. This kind of probation is therefore called *artificial*, because it requires a reasoning to infer the truth of the point in question, from the facts that already appear in proof. Presumptions are either, 1. *juris et de jure*; 2. *juris*; or, 3. *hominis*.

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Scotland.

minis or *judicis*. The first sort obtains, where statute or custom establishes the truth of any point upon a presumption; and it is so strong, that it rejects all proof that may be brought to elide it in special cases. Thus, the testimony of a witness, who forwardly offers himself without being cited, is, from a presumption of his partiality, rejected, let his character be ever so fair; and thus also, a minor, because he is by law presumed incapable of conducting his own affairs, is upon that presumption disabled from acting without the consent of his curators, though he should be known to behave with the greatest prudence. Many such presumptions are fixed by statute.

17. *Præsumptiones juris* are those which our law-books or decisions have established, without founding any particular consequence upon them, or statuting *super præsumpto*. Most of this kind are not proper presumptions inferred from positive facts, but are founded merely on the want of a contrary proof; thus, the legal presumptions for freedom, for life, for innocence, &c. are in effect so many negative propositions, that servitude, death, and guilt, are not to be presumed, without evidence brought by him who makes the allegation. All of them, whether they be of this sort, or proper presumptions, as they are only conjectures formed from what commonly happens, may be elided, not only by direct evidence, but by other conjectures, affording a stronger degree of probability to the contrary. *Præsumptiones hominis* or *judicis*, are those which arise daily from the circumstances of particular cases; the strength of which is to be weighed by the judge.

Fictio juris. 18. A *fictio juris* differs from a presumption. Things are presumed, which are likely to be true; but a fiction of law assumes for truth what is either certainly false, or at least is as probably false as true. Thus an heir is feigned or considered in law as the same person with his ancestor. Fictions of law must, in their effects, be always limited to the special purposes of equity for which they were introduced; see an example, N° clxxxiii. 3.

CLXXIV.

SECT. III. Of Sentences and their Executions.

PROPERTY would be most uncertain, if debateable points might, after receiving a definitive judgement, be brought again in question, at the pleasure of either of the parties: every state has therefore fixed the character of final to certain sentences or decrees, which in the Roman law are called *res judicata*, and which exclude all review or rehearing.

Res judi-
*cata.*Decrees in
foro.

2. Decrees of the court of session, are either *in foro contradictorio*, where both parties have litigated the cause, or in absence of the defender. Decrees of the session *in foro* cannot, in the general case, be again brought under the review of the court, either on points which the parties neglected to plead before sentence (which we call *competent* and *omitted*), or upon points pleaded and found insufficient (*proponed* and *repelled*.) But decrees, though *in foro*, are reversible by the court, where either they labour under essential nullities; e. g. where they are *ultra petita*, or not conformable to their grounds and warrants, or founded on an error in calcul, &c.; or where the party against whom the decree is obtained has thereafter recovered

evidence sufficient to overturn it, of which he knew not before.

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Scotland.

3. As parties might formerly reclaim against the sentences of the session, at any time before extracting the decree, no judgment was final till extract; but now, a sentence of the inner-house, either not reclaimed against within six sederunt days after its date, or adhered to upon a reclaiming bill, though it cannot receive execution till extract, makes the judgment final as to the court of session. And, by an order of the house of lords, March 24. 1725, no appeal is to be received by them from sentences of the session, after five years from extracting the sentence; unless the person intitled to such appeal be minor, clothed with a husband, *non compos mentis*, imprisoned, or out of the kingdom. Sentences pronounced by the lord ordinary have the same effect, if not reclaimed against, as if they were pronounced in presence; and all petitions against the interlocutor of an ordinary must be preferred within eight sederunt days after signing such interlocutor.

Two conse-
cutive in-
terlocutors
are final.Time limi-
ted for ap-
peals.

4. Decrees, in absence of the defender, have not the force of *res judicata* as to him; for where the defender does not appear, he cannot be said to have subjected himself by the judicial contract which is implied in liti-contestation; a party therefore may be restored against these, upon paying to the other his costs in recovering them. The sentences of inferior courts may be reviewed by the court of session,—before decree, by advocacy,—and after decree, by suspension or reduction; which two last are also the methods of calling in question such decrees of the session itself, as can again be brought under the review of the court.

Decrees in
absence.

5. Reduction is the proper remedy, either where the decree has already received full execution by payment, or where it decrees nothing to be paid or performed, but simply declares a right in favour of the pursuer. Suspension is that form of law by which the effect of a sentence condemnatory, that has not yet received execution, is stayed or postponed till the cause be again considered. The first step towards suspension is a bill preferred to the lord ordinary on the bills. This bill, when the desire of it is granted, is a warrant for issuing letters of suspension which pass the signet; but if the presenter of the bill shall not, within 14 days after passing it, expedite the letters, execution may by act of sederunt 1677 proceed on the sentence. In practice, however, it is usual for the charger to put up a protestation in the minute-book for production of the suspension, which may be expedited at any time before this is done; and if the suspender shall allow the protestation to be extracted, the bill falls. Suspensions of decrees *in foro* cannot pass, but by the whole lords in time of session, and by three in vacation time; but other decrees may be suspended by any one of the judges. By the late act of sederunt (1787), in order to remedy the abuse of presenting a multiplicity of bills of suspension of the decrees of inferior judges in small causes which have passed in absence, it is declared, that all bills of suspension of decreets by inferior judges in absence of the defenders in causes under 12 l. Sterling value, shall be refused and remitted to the inferior judge if competent; the suspender, however, before being heard in the inferior court, reimbursing

Decrees re-
viewed ei-
ther by re-
duction or
suspension.

Law of
Scotland.Suspenders
must give
caution.

ing the charger of the expences incurred by him previous to the remit.

6. As suspension has the effect of staying the execution of the creditor's legal diligence, it cannot, in the general case, pass without caution given by the suspender to pay the debt, in the event it shall be found due. Where the suspender cannot, from his low or suspected circumstances, procure unquestionable security, the lords admit juratory caution, *i. e.* such as the suspender swears is the best he can offer; but the reasons of suspension are, in that case, to be considered with particular accuracy at passing the bill. Decrees in favour of the clergy, of universities, hospitals, or parish-schoolmasters, for their stipends, rents, or salaries, cannot be suspended, but upon production of discharges, or on consignation of the sums charged for. A charger, who thinks himself secure without a cautioner, and wants dispatch, may, where a suspension of his diligence is sought, apply to the court to get the reasons of suspension summarily discussed on the bill.

Suspension,
when com-
petent.

7. Though he, in whose favour the decree suspended is pronounced, be always called the charger, yet a decree may be suspended before a charge be given on it. Nay, suspension is competent even where there is no decree, for putting a stop to any illegal act whatsoever: thus, a building, or the exercise of a power which one assumes unwarrantably, is a proper subject of suspension. Letters of suspension are considered merely as a prohibitory diligence; so that the suspender, if he would turn provoker, must bring an action of reduction. If, upon discussing the letters of suspension, the reasons shall be sustained, a decree is pronounced, suspending the letters of diligence on which the charge was given *simpliciter*; which is called a *decree of suspension*, and takes off the effect of the decree suspended. If the reasons of suspension be repelled, the court find the letters of diligence orderly proceeded, *i. e.* regularly carried on; and they ordain them to be put to farther execution.

Extraction
of decrees.

8. Decrees are carried into execution by diligence, either against the person or against the estate of the debtor. The first step of personal execution is by letters of horning, which pass by warrant of the court of session, on the decrees of magistrates of boroughs, sheriffs, admirals, and commissaries. If the debtor does not obey the will of the letters of horning within the days of the charge, the charger, after denouncing him rebel, and registering the horning, may apply for letters of caption, which contain a command, not only to messengers, but to magistrates, to apprehend and imprison the debtor. All messengers and magistrates, who refuse their assistance in executing the caption, are liable *subsidiarie* for the debt; and such subsidiary action is supported by the execution of the messenger employed by the creditor, expressing that they were charged to concur, and would not. Letters of caption contain an express warrant to the messenger, in case he cannot get access, to break open all doors and other lock-fast places.

What per-
sons secu-
red against
caption.

9. Law secures peers, married women, and pupils, against personal execution by caption upon civil debts. Such commoners also as are elected to serve in parliament, are secured against personal execution by the privilege of parliament. No caption can be executed

against a debtor within the precincts of the king's palace of Holyroodhouse: but this privilege of sanctuary afforded no security to criminals, as that did which was, by the canon law, conferred on churches and religious houses. Where the personal presence of a debtor, under caption, is necessary in any of our supreme courts, the judges are empowered to grant him a protection, for such time as may be sufficient for his coming and going, not exceeding a month. Protection from diligence is also granted by the court of session under the late bankrupt statute, where it is applied for, with concurrence of the trustee, or a certain number of the creditors as the case may require.

10. After a debtor is imprisoned, he ought not to be indulged the benefit of the air, not even under a guard; for creditors have an interest, that their debtors be kept under close confinement, that, by the *squalor carceris*, they may be brought to pay their debt: and any magistrate or jailor, who shall suffer the prisoner to go abroad, without a proper attestation, upon oath, of the dangerous state of his health, is liable *subsidiarie* for the debt. Magistrates are in like manner liable, if they shall suffer a prisoner to escape through the insufficiency of their prison: but, if he shall escape under night, by the use of instruments, or by open force, or by any other accident which cannot be imputed to the magistrates or jailor, they are not chargeable with the debt; provided they shall have, immediately after his escape, made all possible search for him. A case lately occurred where a messenger having apprehended a person for a debt, upon letters of caption, delivered him over to the provost of the burgh, and took a receipt for him. The provost allowed him to remain at the inn all night, and afterwards allowed him what is called *open gaol*, by which he had access to the courthouse, under the same roof with the prison, where he transacted business. As the person at whose instance he was apprehended upon the caption, considered that the magistrates had not kept the debtor in prison as commanded by the letters, brought an action against them for the debt, although the debtor had not so much as attempted to make his escape. It was contended by the magistrates, that they were not liable, having only followed the usual practice of the burgh: but the court of session, considering the magistrates as principal keepers of the prison, and as such having no discretionary power, were of opinion, that the debtor had never been imprisoned in the eye of law, and therefore found the magistrates liable; and their judgment was affirmed upon appeal. Regularly, no prisoner for debt upon letters of caption, though he should have made payment, could be released without letters of suspension, containing a charge to the jailor to set him at liberty; because the creditor's discharge could not take off the penalty incurred by the debtor for contempt of the king's authority: but to save unnecessary expence to debtors in small debts, jailors are empowered to let go prisoners where the debt does not exceed 200 merks Scots, upon production of a discharge, in which the creditor consents to his release.

11. Our law, from a consideration of compassion, allows insolvent debtors to apply for a release from prison upon a *cessio bonorum*, *i. e.* upon their making over to the creditors all their estate real and personal. This must be insisted for by way of action, to which all the creditors

Law of
Scotland.Prisoners
must be
closely con-
fined.Form of li-
berating a
prisoner.Liberation
upon a *ces-
sio bonorum*

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Scotland.

creditors of the prisoner ought to be made parties. The prisoner must, in this action, which is cognisable only by the court of session, exhibit a particular inventory of his estate, and make oath that he has no other estate than is therein contained, and that he has made no conveyance of any part of it, since his imprisonment, to the hurt of his creditors. He must also make oath, whether he has granted any disposition of his effects before his imprisonment, and condescend on the persons to whom, and on the cause of granting it; that the court may judge, whether, by any collusive practice, he has forfeited his claim to liberty.

not com-
petent to
delin-
quents.

12. A fraudulent bankrupt is not allowed this privilege; nor a criminal who is liable in any assythment or indemnification to the party injured or his executors, though the crime itself should be extinguished by a pardon. A disposition granted on a *cessio bonorum* is merely in farther security to the creditors, not in satisfaction or *in solutum* of the debts. If, therefore, the debtor shall acquire any estate after his release, such estate may be attached by his creditors, as if there had been no *cessio*, except in so far as is necessary for his subsistence. Debtors, who are set free on a *cessio bonorum*, are obliged to wear a habit proper to dyvours or bankrupts. The lords are prohibited to dispense with this mark of ignominy, unless, in the summons and process of *cessio*, it be libelled, sustained, and proved, that the bankruptcy proceeds from misfortune. And bankrupts are condemned to submit to the habit; even where no suspicion of fraud lies against them, if they have been dealers in an illicit trade.

Dyvour's
habit.

13. Where a prisoner for debt declares upon oath, before the magistrate of the jurisdiction, that he has not wherewith to maintain himself, the magistrate may set him at liberty, if the creditor, in consequence of whose diligence he was imprisoned, does not aliment him within ten days after intimation made for that purpose. But the magistrate may, in such case, detain him in prison, if the creditor chuses to bear the burden of the aliment rather than release him. The statute authorising this release, which is usually called the *act of grace*, is limited to the case of prisoners for civil debts.

Aliment.

Act of
grace.Execution
against the
debtor's e-
state.

14. Decrees are executed against the moveable estate of the debtor by arrestment or poinding; and against his heritable estate, by inhibition, or adjudication. If one be condemned, in a removing or other process, to quit the possession of lands, and refuses, notwithstanding a charge, letters of ejection are granted of course, ordaining the sheriff to eject him, and to enter the obtainer of the decree into possession. Where one opposes by violence the execution of a decree, or of any lawful diligence, which the civil magistrate is not able by himself and his officers to make good, the execution is enforced *manu militari*.

Decrees ar-
bitral.

Submission.

15. A decree arbitral, which is a sentence proceeding on a submission to arbiters, has some affinity with a judicial sentence, though in most respects the two differ. A submission is a contract entered into by two or more parties who have disputable rights or claims, whereby they refer their differences to the final determination of an arbiter or arbiters, and oblige themselves to acquiesce in what shall be decided. Where the day within which the arbiters are to decide, is left blank in the submission, practice has limited the arbiters power of deciding to a year. As this has proceed-

ed from the ordinary words of style, empowering the arbiters to determine betwixt and the day of next to come; therefore, where a submission is indefinite, without specifying any time, like all other contracts or obligations, it subsists for 40 years. Submissions, like mandates, expire by the death of any of the parties-submitters before sentence. As arbiters are not vested with jurisdiction, they cannot compel witnesses to make oath before them, or havers of writings to exhibit them; but this defect is supplied by the court of session, who, at the suit of the arbiters, or of either of the parties, will grant warrant for citing witnesses, or for the exhibition of writings. For the same reason, the power of arbiters is barely to decide; the execution of the decree belongs to the judge. Where the submitters consent to the registration of the decree-arbitral, performance may be enforced by summary diligence.

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Scotland.

16. The power of arbiters is wholly derived from the consent of parties. Hence where their powers are limited to a certain day, they cannot pronounce sentence after that day. Nor can they subject parties to a penalty higher than that which they have agreed to in the submission. And where a submission is limited to special claims, sentence pronounced on subjects not specified in the submission is null, as being *ultra vires compromissi*.

Powers of
arbiters.

17. But, on the other hand, as submissions are designed for a most favourable purpose, the amicable composing of differences, the powers thereby conferred on arbiters receive an ample interpretation. Decrees-arbitral are not reducible upon any ground, except corruption, bribery, or falsehood.

Decrees ar-
bitral, how
far reduc-
ible.

SECT. IV. Of Crimes.

clxxxvi.

THE word *crime*, in its most general sense, includes every breach either of the law of God or of our country; in a more restricted meaning, it signifies such transgressions of law as are punishable by courts of justice. Crimes were, by the Roman law, divided into public and private. Public crimes were those that were expressly declared such by some law or constitution, and which, on account of their more atrocious nature and hurtful consequences, might be prosecuted by any member of the community. Private crimes could be pursued only by the party injured, and were generally punished by a pecuniary fine to be applied to his use. By the law of Scotland, no private party, except the person injured, or his next of kin, can accuse criminally: but the king's advocate, who in this question represents the community, has a right to prosecute all crimes *in vindictam publicam*, though the party injured should refuse to concur. Smaller offences, as petty riots, injuries, &c. which do not demand the public vengeance, pass generally by the appellation of *delicts*, and are punished either by fine or imprisonment.

Crimes,

public, and
private.

2. The essence of a crime is, that there be an intention in the actor to commit; for an action in which the will of the agent has no part, is not a proper object either of rewards or punishments: hence arises the rule *crimen dolo contrahitur*. Simple negligence does not therefore constitute a proper crime. Yet where it is extremely gross, it may be punished arbitrarily. Far less can we reckon in the number of crimes, those committed

What ef-
fential to
crimes.]

Law of
Scotland.

mitted by an idiot or furious person: but lesser degrees of fatuity, which only darken reason, will not afford a total defence, though they may save from the *pana ordinaria*. Actions committed in drunkenness are not to be considered as involuntary, seeing the drunkenness itself, which was the first cause of the action, is both voluntary and criminal.

3. On the same principle, such as are in a state of infancy, or in the confines of it, are incapable of a criminal action, dole not being incident to that age; but the precise age at which a person becomes capable of dole, being fixed neither by nature nor by statute, is by our practice to be gathered by the judge, as he best can, from the understanding and manners of the person accused. Where the guilt of a crime arises chiefly from statute, the actor, if he is under puberty, can hardly be found guilty; but, where nature itself points out its deformity, he may, if he is *proximus pubertati*, be more easily presumed capable of committing it: yet, even in that case, he will not be punished *pana ordinaria*.

Accessories,
or art
and part.

4. One may be guilty of a crime, not only by perpetrating it himself, but being accessory to a crime committed by another; which last is by civilians styled *ope et consilio*, and, in our law-phrase, *art and part*. A person may be guilty, art and part, either by giving advice or counsel to commit the crime; or, 2. By giving warrant or mandate to commit it; or, 3. By actually assisting the criminal in the execution. It is generally agreed by doctors, that, in the more atrocious crimes, the adviser is equally punishable with the criminal; and that, in the slighter, the circumstances arising from the adviser's lesser age, the jocular or careless manner of giving advice, &c. may be received as pleas for softening the punishment. One who gives mandate to commit a crime, as he is the first spring of action, seems more guilty than the person employed as the instrument in executing it; yet the actor cannot excuse himself under the pretence of orders which he ought not to have obeyed.

5. Assistance may be given to the committer of a crime, not only in the actual execution, but previous to it, by furnishing him, intentionally, with poison, arms, or the other means of perpetrating it. That sort of assistance which is not given till after the criminal act, and which is commonly called *abetting*, though it be of itself criminal, does not infer art and part of the principal crime; as if one should favour the escape of a criminal knowing him to be such, or conceal him from justice.

Punishment
of
crimes.

6. Those crimes that are in their consequences most hurtful to society, are punished capitally, or by death; others escape with a lesser punishment, sometimes fixed by statute, and sometimes arbitrary, *i. e.* left to the discretion of the judge, who may exercise his jurisdiction, either by fine, imprisonment, or a corporal punishment. Where the punishment is left, by law, to the discretion of the judge, he can in no case extend it to death. The single escheat of the criminal falls on conviction, in all capital trials, though the sentence should not express it.

Blasphemy.

7. Certain crimes are committed more immediately against God himself; others, against the state; and a third kind, against particular persons. The chief crime in the first class, cognisable by temporal courts, is *blas-*

phemy, under which may be included *atheism*. This crime consists in the denying or vilifying the Deity, by speech or writing. All who curse God or any of the persons of the blessed Trinity, are to suffer death, even for a single act; and those who deny him, if they persist in their denial. The denial of a Providence, or of the authority of the holy Scriptures, is punishable capitally for the third offence.

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8. No prosecution can now be carried on for witchcraft or conjuration. But all who undertake, from their skill in any occult science, to *tell fortunes*, or *discover stolen goods*, are to suffer imprisonment for a year, stand in the pillory four times in that year, and find surety for their future good behaviour.

9. Some crimes against the state are levelled directly against the supreme power, and strike at the constitution itself: others discover such a contempt of law, as tends to baffle authority, or slacken the reins of government. *Treason, crimen majestatis*, is that crime which is aimed against the majesty of the state; and can be committed only by those who are subjects of that state either by birth or residence. Soon after the union of the two kingdoms in 1707, the laws of treason, then in force in England, were made ours by 7 Ann. c. 21. both with regard to the facts constituting that crime, to the forms of trial, the corruption of blood, and all the penalties and forfeitures consequent on it.

10. It is high treason, by the law of England, to imagine the death of the King, Queen-consort, or of the heir apparent of the crown; to levy war against the King, or adhere to his enemies; to counterfeit the king's coin, or his great or privy seal; to kill the chancellor, treasurer, or any of the 12 judges of England, while they are doing their offices: which last article is by the forenamed act 7 Ann. applied to Scotland, in the case of slaying any judge of the session or of judiciary sitting in judgment. Those who wash, clip, or lighten, the proper money of the realm; who advisedly affirm by writing or printing, that the Pretender has any right to the crown, that the king and parliament cannot limit the succession to it, or who hold correspondence with the Pretender, or any person employed by him, are also guilty of treason.

11. The forms of proceeding in the trial of treason, Pains of whether against peers or commoners, are set forth in a small treatise, published by order of the house of lords in 1709, subjoined to a collection of statutes concerning treason. By the conviction upon this trial, the whole estate of the traitor forfeits to the crown. His blood is also corrupted, so that, on the death of an ancestor, he cannot inherit; and the estate which he cannot take, falls to the immediate superior as escheat, *ob defectum heredis*, without distinguishing whether the lands hold of the crown, or of a subject. No attainder for treason shall, after the death of the Pretender and all his sons, hurt the right of any person, other than that of the offender, during his natural life; the rights of creditors and other third parties, in the case of forfeiture on treason, must be determined by the law of England.

12. *Misprision of treason*, from *meprendre*, is the overlooking or concealing of treason. It is inferred by one's bare knowledge of the crime, and not discovering it to a magistrate or other person intitled by his office.

Misprision
of treason.

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office to take examinations; though he should not in the least degree assent to it. The foresaid act 7 *Ann.* makes the English law of misprision ours. Its punishment is, by the law of England, perpetual imprisonment, together with the forfeiture of the offender's moveables, and of the profits of his heritable estate, during his life; that is, in the style of our law, his single and life-rent escheat.

Sedition.

13. The crime of *sedition* consists in the raising commotions or disturbances in the state. It is either verbal or real. Verbal sedition, or leasing making, is inferred from the uttering of words tending to create discord between the king and his people. It is punished either by imprisonment, fine, or banishment, at the discretion of the judge. Real sedition is generally committed by convoking together any considerable number of people, without lawful authority, under the pretence of redressing some public grievance, to the disturbing of the public peace. Those who are convicted of this crime are punished by the confiscation of their goods; and their lives are at the king's will. If any persons, to the number of 12, shall assemble, and being required by a magistrate or constable to disperse, shall nevertheless continue together for an hour after such command, the persons disobeying shall suffer death and confiscation of moveables.

Corruption
in judges.

14. Judges, who, wilfully or through corruption, use their authority as a cover to injustice or oppression, are punished with the loss of honour, fame, and dignity. Under this head may be classed *theftbote* (from *bote*, "compensation"), which is the taking a consideration in money or goods from a thief to exempt him from punishment, or connive at his escape from justice. A sheriff or other judge, guilty of this crime, forfeits his life and goods. And even a private person, who takes theftbote, suffers as the principal thief. The buying of disputed claims, concerning which there is a pending process, by any judge or member either of the session or of an inferior court, is punished by the loss of the delinquent's office, and all the privileges thereto belonging.

Deforcement.

15. Deforcement is the opposition given, or resistance made, to messengers or other officers, while they are employed in executing the law. The court of session is competent to this crime. It is punishable with the confiscation of moveables, the one half to the king, and the other to the creditor at whose suit the diligence was used. Armed persons, to the number of three or more, assisting in the illegal running, landing, or exporting of prohibited or uncustomed goods, or any who shall resist, wound, or maim any officer of the revenue, in the execution of his office, are punishable with death and the confiscation of moveables.

Breach of
arrestment.

16. *Breach of arrestment* (see N^o lxxviii. 5.) is a crime of the same nature with deforcement, as it imports a contempt of the law and of our judges. It subjects to an arbitrary corporal punishment, and the escheat of moveables; with a preference to the creditor for his debt, and for such farther sum as shall be modified to him by the judge. Under this head of crimes against good government and police, may be reckoned the *forestalling of markets*; that is, the buying of goods intended for a public market, before they are carried there; which for the third criminal act infers the escheat of moveables; as also slaying salmon in

N^o 178.

Forestalling,
&c.

forbidden time, destroying plough graith in time of tillage, slaying or houghing horses or cows in time of harvest, and destroying or spoiling growing timber; as to the punishment of which, see statutes 1503, c. 72. — 1587, c. 82. and 1689, c. 16. — 1 *Geo. I. St. 2.* c. 48.

17. Crimes against particular persons may be directed either against life, limb, liberty, chastity, goods, or reputation. *Murder* is the wilful taking away of a person's life, without a necessary cause. Our law makes no distinction betwixt premeditated and sudden homicide: both are punished capitally. Casual homicide, where the actor is in some degree blameable; and homicide in self-defence, where the just bounds of defence have been exceeded; are punished arbitrarily: but the slaughter of night-thieves, house-breakers, assistants in masterful depredations, or rebels denounced for capital crimes, may be committed with impunity. The crime of *demembration*, or the cutting off of a member, is joined with that of murder; but in practice, its punishment has been restricted to the escheat of moveables, and an assythment or indemnification to the party. *Mutilation*, or the disabling of a member, is punished at the discretion of the judge.

18. *Self-murder* is as highly criminal as the killing our neighbour; and for this reason, our law has, contrary to the rule, *crimina morte extinguuntur*, allowed a proof of the crime, after the offender's death, that his single escheat might fall to the king or his donatory. To this end, an action must be brought, not before the justiciary, but the session, because it is only intended *ad civilem effectum*, for proving and declaring the self-murder; and the next of kin to the deceased must be made a party to it.

19. The punishment of parricide, or of the murder of a parent, is not confined, by our law, to the criminal himself. All his posterity in the right line are declared incapable of inheriting; and the succession devolves on the next collateral heir. Even the cursing or beating of a parent infers death, if the person guilty be above 16 years; and an arbitrary punishment, if he be under it. A presumptive or statutory murder is constituted by 1690, c. 21. by which any woman who shall conceal her pregnancy, during its whole course, and shall not call for, or make use of, help in the birth, is to be reputed the murderer, if the child be dead, or amissing. This act was intended to discourage the unnatural practice of women making away with their children begotten in fornication, to avoid church-censures.

20. *Duelling*, is the crime of fighting in single combat, on previous challenges given and received. Fighting in a duel, without licence from the king, is punishable by death; and whatever person, principal or second, shall give a challenge to fight a duel, or shall accept a challenge, or otherwise engage therein, is punished by banishment and escheat of moveables, though no actual fighting should ensue.

21. *Haimfucken* (from *haim* "home," and *focken* "to seek or pursue") is the assaulting or beating of a person in his own house. The punishment of this crime is nowhere defined, except in the books of the Majesty, which make it the same as that of a rape; and it is, like rape, capital by our practice. The assault must be made in the proper house of the person assaulted, where

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Murder.

Self-murder.

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where he lies and rises daily and nightly; so that neither a public house, nor even a private, where one is only transiently, falls within the law.

Battery.

22. Any party to a law-suit, who shall slay, wound, or otherwise invade his adversary, at any period of time between executing the summons and the complete execution of the decree, or shall be accessory to such invasion, shall lose his cause. The sentence pronounced on this trial, against him who has committed the battery, is not subject to reduction, either on the head of minority, or on any other ground whatever: and if the person prosecuted for this crime shall be denounced for not appearing, his liferent, as well as single escheat, falls upon the denunciation.

Wrongous
imprison-
ment.

23. The crime of *wrongous imprisonment* is inferred, by granting warrants of commitment in order to trial, proceeding on informations not subscribed, or without expressing the cause of commitment; by receiving or detaining prisoners on such warrants; by refusing to a prisoner a copy of the warrant of commitment; by detaining him in close confinement, above eight days after his commitment; by not releasing him on bail, where the crime is bailable; and by transporting persons out of the kingdom, without either their own consent, or a lawful sentence. The persons guilty of a wrongous imprisonment are punished by a pecuniary mulct, from L. 6000 down to L. 400 *Scots*, according to the rank of the person detained; and the judge, or other person guilty, is over and above subjected to pay to the person detained a certain sum *per diem*, proportioned to his rank, and is declared incapable of public trust. All these penalties may be insisted for by a summary action before the session, and are subject to no modification.

Adultery.

24. *Adultery*, is the crime by which the marriage-bed is polluted. This crime could neither by the Roman nor Jewish law be committed, but where the guilty woman was the wife of another: by ours, it is adultery, if either the man or woman be married. We distinguish between simple adultery, and that which is notorious or manifest. Open and manifest adulterers, who continue incorrigible, notwithstanding the censures of the church, are punished capitally. This crime is distinguished by one or other of the following characters: where there is issue procreated between the adulterers; or where they keep bed and company together notoriously; or where they give scandal to the church, and are, upon their obstinate refusing to listen to its admonitions, excommunicated. The punishment of simple adultery, not being defined by statute, is left to the discretion of the judge; but custom has made the falling of the single escheat one of its penalties.

Bigamy.

25. *Bigamy*, is a person's entering into the engagements of a second marriage, in violation of a former marriage-vow still subsisting. Bigamy, on the part of the man, has been tolerated in many states, before the establishment of Christianity, even by the Jews themselves; but it is prohibited by the precepts of the gospel, and it is punished by our law, whether on the part of the man or of the woman, with the pains of perjury.

Incest.

26. *Incest*, is committed by persons who stand within the degrees of kindred forbidden in *Lev. xviii.* and is punished capitally. The same degrees are prohibited.

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bited in affinity, as in consanguinity, *Lev. xviii. 13. et seq.* As this crime is repugnant to nature, all children, whether lawful or natural, stand on an equal footing: *civilis ratio civilia jura corrumpere potest, non vero naturalia.* It is difficult indeed to bring a legal proof of a relation merely natural, on the side of the father; but the mother may be certainly known without marriage.

Rape.

27. There is no explicit statute making rape, or the ravishing of women, capital; but it is plainly supposed in act 1612. c. 4. by which the ravisher is exempted from the pains of death, only in the case of the woman's subsequent consent, or her declaration that she went off with him of her own free-will; and even then, he is to suffer an arbitrary punishment, either by imprisonment, confiscation of goods, or a pecuniary fine.

Theft.

28. *Theft* is defined, A fraudulent intermeddling with the property of another, with a view of making gain. Our ancient law proportioned the punishment of the theft to the value of the goods stolen; heightening it gradually, from a slight corporal punishment to a capital, if the value amounted to thirty-two pennies Scots, which in the reign of David I. was the price of two sheep. In several latter acts, it is taken for granted, that this crime is capital. But where the thing stolen is of small value, we consider it not as theft but as pickery, which is punished either corporally or by banishment. The breaking of orchards, and the stealing of green wood, is punished by a fine, which rises as the crime is repeated.

29. Theft may be aggravated into a capital crime, though the value of the thing stolen be trifling; as theft twice repeated, or committed in the night, or by landed men; or of things set apart for sacred uses. The receivers and concealers of stolen goods, knowing them to be such, suffer as thieves. Those who barely harbour the person of the criminal within 48 hours either before or after committing the crime, are punished as partakers of the theft. Such as sell goods belonging to thieves or lawless persons who dare not themselves come to market, are punished with banishment and the escheat of moveables.

Refet of
theft.

30. Theft attended with violence is called *robbery*; Robbery, and in our old statutes, *rief* or *stouthrief*; under which &c. class may be included *forning*, or the taking of meat and drink by force, without paying for it. Stouthrief came at last to be committed so audaciously, by bands of men associated together, that it was thought necessary to vest all our freeholders with a power of holding courts upon forners and rievors, and condemning them to death. Nay, all were capitally punished, who, to secure their lands from depredation, payed to the rievors a yearly contribution, which got the name of *black-mail*. An act also passed, commanding to banishment a band of forners, who were originally from *Egypt*, called *gyffies*, and adjudging to death all that should be reputed *Egyptians*, if found thereafter within the kingdom. Robbery committed on the seas is called *piracy*, and is punished capitally by the high admiral. Several of the facts which constitute this crime are set forth in a British statute, 8 *Geo. I. c. 24.*

31. *Falseness*, in a large sense, is the fraudulent imitation or suppression of truth, to the damage of another. The lives and goods of persons convicted of using false weights or measures were, by our old law, in the king's

Falseness.

4 Y

mercy:

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Forgery.

mercy: and their heirs could not inherit but upon a remission. The latest statute against this crime, punishes it by confiscation of moveables. That particular species of falsehood, which consists in the falsifying of writings, passes by the name of *forgery*. Our practice has now of a long time, agreeably to the Roman law, made this crime capital; unless the forgery be of executions, or other writings of smaller moment; in which case, it is punished arbitrarily.

32. The writing must not only be fabricated, but put to use or founded on, in order to infer this crime. And though it be strictly criminal, yet the trial of it is proper to the court of session; but where improbation is moved against a deed by way of exception, the inferior judge, before whom the action lies, is competent to it *ad civilem effectum*. When it is pleaded as an exception, our practice, to discourage affected delays, obliges the defender, who moves it, to consign L. 40 Scots; which he forfeits, if his plea shall appear calumnious.

33. Where a person, found guilty of forgery by the court of session, is by them remitted to the justiciary, an indictment is there exhibited against him, and a jury sworn, before whom the decree of session is produced, in place of all other evidence of the crime, in respect of which the jury find the pannel guilty; so that that decree being pronounced by a competent court, is held as full proof, or, in the style of the bar, as *probatio probata*.

Perjury.

34. *Perjury*, which is the judicial affirmation of a falsehood on oath, really constitutes the *crimen falsi*; for he who is guilty of it does, in the most solemn manner, substitute falsehood in the place of truth. To constitute this crime, the violation of truth must be deliberately intended by the swearer; and therefore reasonable allowances ought to be given to forgetfulness or misapprehension, according to his age, health, and other circumstances. The breach of a promissory oath, does not infer this crime; for he who promises on oath, may sincerely intend performance when he swears, and so cannot be said to call on God to attest a falsehood. Though an oath, however false, if made upon reference in a civil question, concludes the cause, the person perjured is liable to a criminal trial; for the effect of the reference can go no further than the private right of the parties.

35. Notwithstanding the mischievous consequences of perjury to society, it is not punished capitally, but by confiscation of moveables, imprisonment for a year, and infamy. The court of session is competent to perjury *incidenter*, when, in any examination upon oath, taken in a cause depending before them, a person appears to have sworn falsely; but in the common case, that trial is proper to the justiciary. *Sabornation of perjury* consists in tampering with persons who are to swear in judgment, by directing them how they are to depose; and it is punished with the pains of perjury.

Stellionate.

36. The crime of *stellionate*, from *stellio*, includes every fraud which is not distinguished by a special name; but is chiefly applied to conveyances of the same numerical right, granted by the proprietor to different disponees. The punishment of stellionate must necessarily be arbitrary, to adapt it to the various natures and different aggravations of the fraudulent acts.

The persons guilty of that kind of it, which consists in granting double conveyances, are by our law declared infamous, and their lives and goods at the king's mercy. The cognizance of *fraudulent bankruptcy* is appropriated to the court of session, who may inflict any punishment on the offender that appears proportioned to his guilt, death excepted.

37. The crime of *usury*, before the reformation, consisted in the taking of *any* interest for the use of money; and now in taking an higher rate of interest than is authorised by law. It is divided into *usura manifesta*, or direct; and *velata*, or covered. One may be guilty of the first kind, either where he covenants with the debtor for more than the lawful interest on the loan-money; or where one receives the interest of a sum before it is due, since thereby he takes a consideration for the use of money before the debtor has really got the use of it. Where a debt is clogged with an uncertain condition, by which the creditor runs the hazard of losing his sum, he may covenant for an higher interest than the legal, without the crime of usury; for there, the interest is not given merely in consideration of the use of the money, but of the danger undertaken by the creditor.

38. Covered usury, is that which is committed under the mask not of a loan but of some other contract; e. g. a sale or an improper wadset. And in general, all obligations entered into with an intention of getting more than the legal interest for the use of money, however they may be disguised, are usurious. As a farther guard against this crime, the taking more than the legal interest for the forbearance of payment of money, merchandise, or other commodities, by way of loan, exchange, or other contrivance whatever, or the taking a bribe for the loan of money, or for delaying its payment when lent, is declared usury. Where usury is proved, the usurious obligation is not only declared void, but the creditor, if he has received any unlawful profits, forfeits the treble value of the sums or goods lent. Usury, when it is to be pursued criminally, must be tried by the justiciary; but where the libel concludes only for voiding the debt, or restitution, the session is the proper court.

39. *Injury*, in its proper acceptation, is the reproaching or affronting our neighbour. Injuries are either verbal or real. A verbal injury, when directed against a private person, consists in the uttering contumelious words, which tend to expose our neighbour's character by making him little or ridiculous. It does not seem that the twitting one with natural defects, without any sarcastical reflections, though it be inhuman, falls under this description, as these imply no real reproach in the just opinion of mankind. Where the injurious expressions have a tendency to blacken one's moral character, or fix some particular guilt upon him, and are deliberately repeated in different companies, or handed about in whispers to confidants, it then grows up to the crime of slander: and where a person's moral character is thus attacked, the *animus injuriandi* is commonly inferred from the injurious words themselves, unless special circumstances be offered to take off the presumption, *ex. gr.* that the words were uttered in judgment in one's own defence, or by way of information to a magistrate, and had some foundation in fact. Though the cognizance of slander is proper to the commissaries,

Usury.

Injury.

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missaries, who, as the *judices Christianitatis*, are the only judges of scandal; yet, for some time past, bare verbal injuries have been tried by other criminal judges, and even by the session. It is punished either by a fine, proportioned to the condition of the persons injuring and injured, and the circumstances of time and place; or if the injury import scandal, by publicly acknowledging the offence; and frequently the two are conjoined. The calling one a bankrupt is not, in strict speech, a verbal injury, as it does not affect the person's moral character; yet, as it may hurt his credit in the way of business, it founds him in an action of damages, which must be brought before the judge-ordinary. A real injury is inflicted by any fact by which a person's honour or dignity is affected; as striking one with a cane, or even aiming a blow without striking; spitting in one's face; assuming a coat of arms, or any other mark of distinction proper to another, &c. The composing and publishing defamatory libels may be reckoned of this kind. Real injuries are tried by the judge-ordinary, and punished either by fine or imprisonment, according to the demerit of the offenders.

Criminal
jurisdiction

40. After having shortly explained the several crimes punishable by our law, this treatise may be concluded with a few observations on criminal jurisdiction, the forms of trial, and the methods by which crimes may be extinguished. Criminal jurisdiction is founded, 1. *Ratione domicilii*, if the defender dwells within the territory of the judge. Vagabonds, who have no certain *domicile*, may be tried wherever they are apprehended. 2. *Ratione delicti*, if the crime was committed within the territory. Treason is triable, by the English law, in any county that the king should appoint; and, by a temporary act now expired, treason committed in certain Scots counties, was made triable by the court of justiciary, wherever it should sit.

What per-
sons are not
triable.

41. No criminal trial can proceed, unless the person accused is capable of making his defence. Absents therefore cannot be tried; nor fatuous nor furious persons, *durante furore*, even for crimes committed while they were in their senses. For a like reason, minors who had no curators, could not, by the Roman law, be tried criminally; but our practice considers every person who is capable of dole, to be also sufficiently qualified for making his defence in a criminal trial.

Commit-
ment.

42. No person can be imprisoned in order to stand trial for any crime, without a warrant in writing expressing the cause, and proceeding upon a subscribed information, unless in the case of indignities done to judges, riots, and the other offences specially mentioned in 1701. c. 6. Every prisoner committed in order to trial, if the crime of which he is accused be not capital, is entitled to be released upon bail, the extent of which is to be modified by the judge, not exceeding 12,000 merks Scots for a nobleman, 6000 for a landed gentleman, 2000 for every other gentleman or burgher, and 600 for any other inferior person. That persons who, either from the nature of the crime with which they are charged, or from their low circumstances, cannot procure bail, may not lie for ever in prison untried, it is lawful for every such prisoner to apply to the criminal judge, that his trial may be brought on.

The judge must, within 24 hours after such application, issue letters directed to messengers, for intimating to the prosecutor to fix a diet for the prisoner's trial, within 60 days after the intimation, under the pain of wrongous imprisonment: And if the prosecutor does not insist within that time, or if the trial is not finished in forty days more when carried on before the Justiciary, or in thirty when before any other judge; the prisoner is, upon a second application, setting forth that the legal time is elapsed, entitled to his freedom, under the same penalty.

43. Upon one's committing any of the grosser Precognition. crimes, it is usual for a justice of the peace, sheriff, or other judge, to take a precognition of the facts, *i. e.* to examine those who were present at the criminal act, upon the special circumstances attending it, in order to know whether there is ground for a trial, and to serve as a direction to the prosecutor, how to set forth the facts in the libel; but the persons examined may insist to have their declarations cancelled before they give testimony at the trial. Justices of the peace, sheriffs, and magistrates of boroughs, are also authorised to receive informations, concerning crimes to be tried in the circuit-courts; which informations are to be transmitted to the justice-clerk 40 days before the sitting of the respective courts. To discourage groundless criminal trials, all prosecutors, where the defender was absolved, were condemned by statute, in costs, as they should be modified by the judge, and besides were subjected to a small fine, to be divided between the fisc and the defender: And where the king's advocate was the only pursuer, his informer was made liable. This sufficiently warrants the present practice of condemning vexatious prosecutors in a pecuniary mulct, though far exceeding the statutory sum.

44. The forms of trial upon criminal accusations, Form of differ much from those observed in civil actions, if we trial. except the case of such crimes as the court of session is competent to, and of lesser offences tried before inferior courts. The trial of crimes proceeds either upon indictment, which is sometimes used when the person to be tried is in prison; or by criminal letters issuing from the signet of the justiciary. In either case, the defender must be served with a full copy of the indictment or letters, and with a list of the witnesses to be brought against him, and of the persons who are to pass on the inquest, and 15 free days must intervene between his being so served and the day of appearance. When the trial proceeds upon criminal letters, the private prosecutor must give security, at raising the letters, that he will report them duly executed to the justiciary, in terms of 1535. c. 35.; and the defender, if he be not already in prison, is, by the letters, required to give caution, within a certain number of days after his citation, for his appearance upon the day fixed for his trial: And if he gives none within the days of the charge, he may be denounced rebel, which infers the forfeiture of his moveables.

45. That part of the indictment, or of the criminal letters, which contains the ground of the charge against the defender, and the nature or degree of the punishment he ought to suffer, is called the *libel*. All libels must be special, setting forth the particular facts inferring the guilt, and the particular place where

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these facts were done. The time of committing the crime may be libelled in more general terms, with an alternative as to the month, or day of the month: but as it is not practicable, in most cases, to libel upon the precise circumstances of accession that may appear in proof, libels against accessories are sufficient, if they mention, in general, that the persons prosecuted are guilty art and part.

46. The defender in a criminal trial may raise letters of exculpation, for citing witnesses in proof of his defences against the libel, or of his objections against any of the jury or witnesses; which must be executed to the same day of appearance with that of the indictment or criminal letters.

Diets of
appearance.

47. The diets of appearance, in the court of justiciary, are peremptory: the criminal letters must be called on the very day to which the defender is cited; and hence, if no accuser appears, their effect is lost, *instantia perit*, and new letters must be raised. If the libel, or any of the executions, shall to the prosecutor appear informal, or if he be diffident of the proof, from the absconding of a necessary witness, the court will, upon a motion made by him, desert the diet *pro loco et tempore*; after which new letters become also necessary. A defender, who does not appear on the very day to which he is cited, is declared fugitive; in consequence of which, his single escheat falls. The defender, after his appearance in court, is called the pannel.

48. The two things to be chiefly regarded in a criminal libel, are, 1. The relevancy of the facts, *i. e.* their sufficiency to infer the conclusion; 2. Their truth. The consideration of the first belongs to the judge of the court; that of the other, to the jury or assize. If the facts libelled be found irrelevant, the pannel is dismissed from the bar; if relevant, the court remits the proof thereof to be determined by the jury; which must consist of 15 men picked out by the court from a greater number not exceeding 45, who have been all summoned, and given in list to the defender at serving him with a copy of the libel.

Probation
of crimes.

49. Crimes cannot, like debts, be referred to the defender's oath; for no person is compellable to swear against himself, where his life, limb, liberty, or estate is concerned, nor even in crimes which infer infamy; because one's good name is, in right estimation, as valuable as his life. There is one exception however to this rule in trying the crime of usury, which may be proved by the usurer's own oath, notwithstanding the rule, *Nemo tenetur jurare in suam turpitudinem*. Crimes therefore are in the general case proveable only by the defender's free confession, or by writing, or by witnesses. No extrajudicial confession, unless it is adhered to by the pannel in judgement, can be admitted as evidence.

Socii crimi-
nis.

50. All objections relevant against a witness in civil cases are also relevant in criminal. No witness is admitted, who may gain or lose by the event of the trial. *Socii criminis*, or associates in the same crime, are not admitted against one another, except either in crimes against the state, as treason; in occult crimes, where other witnesses cannot be had, as forgery; or in thefts or depredations committed in the Highlands. The testimony of the private party injured may be received against the pannel, where the king's advocate

is the only prosecutor, if from the nature of the crime, there must needs be a penury of witnesses, as in rape, robbery, &c.

Law of
Scotland.

51. After all the witnesses have been examined in court, the jury are shut up in a room by themselves, where they must continue, excluded from all correspondence, till their verdict or judgment be subscribed by the foreman (or chancellor) and clerk; and according to this verdict the court pronounces sentence, either absolving or condemning. It is not necessary, by the law of Scotland, that a jury should be unanimous in finding a person guilty; the narrowest majority is as sufficient against the pannel, as for him. Juries cannot be punished on account of an erroneous verdict, either for or against the pannel.

Verdict of
assize.

52. Though the proper business of a jury be to inquire into the truth of the facts found relevant by the court, for which reason they are sometimes called the *inquest*; yet, in many cases, they judge also in matters of law or relevancy. Thus, though an objection against a witness should be repelled by the court, the jury are under no necessity to give more credit to his testimony than they think just: And in all trials of art and part, where special facts are not libelled, the jury, if they return a general verdict, are indeed judges not only of the truth, but of the relevancy of the facts that are sworn to by the witnesses. A general verdict, is that which finds in general terms, that the pannel is guilty or not guilty, or that the libel or defences are proved or not proved. In a special verdict, the jury finds certain facts proved, the import of which is to be afterwards considered by the court.

Powers of
a jury.

53. Criminal judges must now suspend for some time the execution of such sentences as affect life or limb, that so condemned criminals, whose cases deserve favour, may have access to apply to the king for mercy. No sentence of any court of judicature, south of the river Forth, importing either death or demerbration, can be executed in less than 30 days; and, if north of it, in less than 40 days, after the date of the sentence. But corporal punishments, less than death or dismembering, *e. g.* whipping, pillory, &c. may be inflicted eight days after sentence on this side Forth, and twelve days after sentence beyond it.

Sentences.

54. Crimes are extinguished, 1. By the death of the criminal: both because a dead person can make no defence, so that his trial is truly a judging upon the hearing of one side; and because, though his guilt should be ever so notorious, he is after death carried beyond the reach of human penalties: Such trials therefore can have no effect, but to punish the innocent heir, contrary to that most equitable rule, *Culpa tenet suos auctores*. 2. Crimes may be extinguished by a remission from the sovereign. But a remission, tho' it secures the delinquent from the public resentment, the exercise of which belongs to the crown, cannot cut off the party injured from his claim of damages, over which the crown has no prerogative. Whoever therefore founds on a remission, is liable in damages, to the private prosecutor, in the same manner as if he had been tried and found guilty. Even general acts of indemnity passed in parliament, though they secure against such penalties as law inflicts upon the criminal merely *per modum pene*, yet do not against the payment of any pecuniary fine that is given by statute

Extinction
of crimes.

Law of
Scotland.Law of
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to the party injured, nor against the demand of any claim competent to him in name of damages.

55. Lesser injuries, which cannot be properly said to affect the public peace, may be extinguished, either by the private party's expressly forgiving him, or by his being reconciled to the offender, after receiving the injury. Hence arises the rule, *Diffimulatio tollitur injuria*. But where the offence is of a higher nature, the party injured, though he may pass from the prosecution, in so far as his private interest is concerned, cannot preclude the king's advocate, or procurator-fiscal, from inflicting *ad vindictam publicam*.

Prescrip-
tion.

56. Crimes are also extinguished by prescription, which operates by the mere lapse of time, without any act either of the sovereign or of the private sufferer. Crimes prescribe in 20 years; but in particular crimes, the prescription is limited by statute to a shorter time. No person can be prosecuted upon the act against wrongous imprisonment, after three years. High treason, committed within his majesty's dominions, suffers likewise a triennial prescription, if indictment be not found against the traitor within that time. All actions

brought upon any penal statute made or to be made, where the penalty is appropriated to the crown, expire in two years after committing the offence; and where the penalty goes to the crown or other prosecutor, the prosecutor must sue within one year, and the crown within two years after the year ended. Certain crimes are, without the aid of any statute, extinguished by a shorter prescription than twenty years. By our old law, in the cases of rape, robbery, and hamesucken, the party injured was not heard after a silence of twenty-four hours; from a presumption, that persons could not be so grossly injured, without immediately complaining: And it is probable, that a prosecution for these crimes, if delayed for any considerable time, would be cast even at this day, or at least the punishment restricted. Lesser injuries suffer also a short prescription; law *presuming* forgiveness, from the nature of the offence, and the silence of the party. The particular space of time sufficient to establish this presumption must be determined by the judge, according to circumstances.

L A W

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Law-
Language.Law-
Language.

Law-Language. In England all law-proceedings were formerly written, as indeed all public proceedings were, in Norman or law French, and even the arguments of the counsel and decisions of the court were in the same barbarous dialect. An evident and shameful badge, it must be owned, of tyranny and foreign servitude; being introduced under the auspices of William the Norman, and his sons: whereby the observation of the Roman satyrist was once more verified, that *Gallia caufidicos docuit facunda Britannos*. This continued till the reign of Edward III.; who, having employed his arms successfully in subduing the crown of France, thought it unbeseeming the dignity of the victors to use any longer the language of a vanquished country. By a statute, therefore, passed in the 36th year of his reign, it was enacted, that for the future all pleas should be pleaded, shown, defended, answered, debated, and judged, in the English tongue; but be entered and inrolled in Latin: In like manner as Don Alonso X. king of Castile (the great-grandfather of our Edward III.) obliged his subjects to use the Castilian tongue in all legal proceedings; and as, in 1286, the German language was established in the courts of the empire. And perhaps, if our legislature had then directed that the writs themselves, which are mandates from the king to his subjects to perform certain acts or to appear at certain places, should have been framed in the English language, according to the rule of our ancient law, it had not been very improper. But the record or enrolment of those writs and the proceedings thereon, which was calculated for the benefit of posterity, was more serviceable (because more durable) in a dead and immutable language than in any flux or living one. The practisers, however, being used to the Norman language, and therefore imagining they could express their thoughts more aptly and more concisely in that than in any other, still continued to take their notes in law French; and of course, when those notes came to be published, under the denomination of re-

ports, they were printed in that barbarous dialect; which, joined to the additional terrors of a Gothic black letter, has occasioned many a student to throw away his Plowden and Littleton, without venturing to attack a page of them. And yet in reality, upon a nearer acquaintance, they would have found nothing very formidable in the language; which differs in its grammar and orthography as much from the modern French, as the diction of Chaucer and Gower does from that of Addison and Pope. Besides, as the English and Norman languages were concurrently used by our ancestors for several centuries together, the two idioms have naturally assimilated, and mutually borrowed from each other: for which reason the grammatical construction of each is so very much the same, that I apprehend an Englishman (with a week's preparation) would understand the laws of Normandy, collected in their *grand coustumier*, as well, if not better, than a Frenchman bred within the walls of Paris.

The Latin, which succeeded the French for the entry and enrolment of pleas, and which continued in use for four centuries, answers so nearly to the English (oftentimes word for word) that it is not at all surprising it should generally be imagined to be totally fabricated at home, with little more art or trouble than by adding Roman terminations to English words. Whereas in reality it is a very universal dialect, spread throughout all Europe at the irruption of the northern nations; and particularly accommodated and moulded to answer all the purposes of the lawyers with a peculiar exactness and precision. This is principally owing to the simplicity, or (if the reader pleases) the poverty and baldness of its texture, calculated to express the ideas of mankind just as they arise in the human mind, without any rhetorical flourishes, or perplexed ornaments of style: for it may be observed, that those laws and ordinances, of public as well as private communities, are generally the most easily understood, where strength and perspicuity, not harmony or elegance of

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expression, have been principally consulted in compiling them. These northern nations, or rather their legislators, though they resolved to make use of the Latin tongue in promulging their laws, as being more durable and more generally known to their conquered subjects than their own Teutonic dialects, yet (either through choice or necessity) have frequently intermixed therein some words of a Gothic original; which is, more or less, the case in every country of Europe, and therefore not to be imputed as any peculiar blemish in our English legal latinity. The truth is, what is generally denominated *law-Latin* is in reality a mere technical language, calculated for eternal duration, and easy to be apprehended both in present and future times; and on those accounts best suited to preserve those memorials which are intended for perpetual rules of action. The rude pyramids of Egypt have endured from the earliest ages, while the more modern and more elegant structures of Attica, Rome, and Palmyra, have sunk beneath the stroke of time.

As to the objection of locking up the law in a strange and unknown tongue, this is of little weight with regard to records; which few have occasion to read, but such as do, or ought to, understand the rudiments of Latin. And besides, it may be observed of the law-Latin, as the very ingenious Sir John Davis observes of the law-French, "that it is so very easy to be learned, that the meanest wit that ever came to the study of the law doth come to understand it almost perfectly in ten days without a reader."

It is true, indeed, that the many terms of art, with which the law abounds, are sufficiently harsh when Latinized (yet not more so than those of other sciences), and may, as Mr Selden observes, give offence "to some grammarians of squeamish stomachs, who would rather choose to live in ignorance of things the most useful and important, than to have their delicate ears wounded by the use of a word unknown to Cicero, Sallust, or the other writers of the Augustan age." Yet this is no more than must unavoidably happen when things of modern use, of which the Romans had no idea, and consequently no phrases to express them, come to be delivered in the Latin tongue. It would puzzle the most classical scholar to find an appellation, in his pure Latinity, for a constable, a record, or a deed of feoffment: it is therefore to be imputed as much to necessity as ignorance, that they were styled in our forensic dialect, *constabularius*, *recordum*, and *feoffamentum*. Thus again, another uncouth word of our ancient laws (for I defend not the ridiculous barbarisms sometimes introduced by the ignorance of modern practisers), the substantive *murdrum*, or the verb *murdrare*, however harsh and unclassical it may seem, was necessarily framed to express a particular offence; since no other word in being, *occidere*, *interficere*, *necare*, or the like, was sufficient to express the intention of the criminal, or *quo animo* the act was perpetrated; and therefore by no means came up to the notion of murder at present entertained by a law; viz. a killing with malice aforethought.

A similar necessity to this produced a similar effect at Byzantium, when the Roman laws were turned into Greek for the use of the oriental empire: for, without any regard to Attic elegance, the lawyers of the imperial courts made no scruple to translate *fidei commiss-*

sarios, *φιδεικομισσαριος*; *cubiculum*, *κυβικλειον*; *filiumfamilias*, *παιδα-φαιμλιας*; *repudium*, *ρεπυδιον*; *compromissum*, *κομπρομισσον*; *reverentia et obsequium*, *ρευερεντια και οβ σεκκιον*; and the like. They studied more the exact and precise import of the words, than the neatness and delicacy of their cadence. And it may be suggested, that the terms of the law are not more numerous, more uncouth, or more difficult to be explained by a teacher, than those of logic, physics, and the whole circle of Aristotle's philosophy; nay, even of the politer arts of architecture and its kindred studies, or the science of rhetoric itself. Sir Thomas More's famous legal question contains in it nothing more difficult, than the definition which in his time the philosophers currently gave of their *materia prima*, the groundwork of all natural knowledge; that it is *neque quid, neque quantum, neque quale, neque aliquid eorum quibus ens determinatur*; or its subsequent explanation by Adrian Heereboard, who assures us, that *materia prima non est corpus, neque per formam corporeitatis, neque per simplicem essentiam: est tamen ens, et quidem substantia, licet incompleta; habetque actum ex se entitativum, et simul est potentia subjectiva*. The law, therefore, with regard to its technical phrases, stands upon the same footing with other studies, and requests only the same indulgence.

This technical Latin continued in use from the time of its first introduction, till the subversion of our ancient constitution under Cromwell; when, among many other innovations in the law, some for the better and some for the worse, the language of our records was altered and turned into English. But, at the restoration of king Charles, this novelty was no longer countenanced; the practisers finding it very difficult to express themselves so concisely or significantly in any other language but the Latin. And thus it continued without any sensible inconvenience till about the year 1730, when it was again thought proper that the proceedings at law should be done into English, and it was accordingly so ordered by statute 4 Geo. II. c. 26. This was done, in order that the common people might have knowledge and understanding of what was alleged or done for and against them in the process and pleadings, the judgment and entries in cause. Which purpose it is doubtful how well it has answered; but there is reason to suspect, that the people are now, after many years experience, altogether as ignorant in matters of law as before. On the other hand, these inconveniences have already arisen from the alteration; that now many clerks and attorneys are hardly able to read, much less to understand, a record even of so modern a date as the reign of George I. And it has much enhanced the expence of all legal proceedings: for since the practisers are confined (for the sake of the stamp-duties, which are thereby considerably increased) to write only a stated number of words in a sheet; and as the English language, through the multitude of its particles, is much more verbose than the Latin; it follows, that the number of sheets must be very much augmented by the change. The translation also of technical phrases, and the names of writs and other process, were found to be so very ridiculous (a writ of *nisi prius, quare impedit, fieri facias, habeas corpus*, and the rest, not being capable of an English dress with any degree of seriousness), that in two years time a new act was obliged to be

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Law. be made, 6 Geo. II. c. 14. which allows all technical words to continue in the usual language, and has thereby defeated every beneficial purpose of the former statute.

Trial by Wager of Law, (*vadiatio legis*;) a species of trial, in the English law, so called, as another species is styled "wager of battel," *vadiatio duelli*, (see **BATTEL**): because, as in the wager of battel, the defendant gave a pledge, gage, or *vadium*, or try the cause by battel; so here he was put in sureties or *vadios*, that at such a day he will make his law, that is, take the benefit which the law has allowed him, (see the article **TRIAL**). For our ancestors considered, that there were many cases where an innocent man, of good credit, might be overborne by a multitude of false witnesses; and therefore established this species of trial, by the oath of the defendant himself: for if he will absolutely swear himself not chargeable, and appears to be a person of reputation, he shall go free, and for ever acquitted of the debt, or other cause of action.

Blackst. Comment. The manner of waging and making law is this. He that has waged, or given security, to make his law, brings with him into court eleven of his neighbours: a custom which we find particularly described so early as in the league between Alfred and Guthrun the Dane; for by the old Saxon constitution every man's credit in courts of law depended upon the opinion which his neighbours had of his veracity. The defendant then, standing at the end of the bar, is admonished by the judges of the nature and danger of a false oath. And if he still persists, he is to repeat this or the like oath: "Hear this, ye justices, that I do not owe unto Richard Jones the sum of ten pounds nor any penny thereof, in manner and form as the said Richard hath declared against me. So help me God." And thereupon his eleven neighbours or compurgators shall avow upon their oaths, that they believe in their consciences that he saith the truth; so that himself must be sworn *de fidelitate*, and the eleven *de credulitate*.

Stiernhook, l. 9. c. 1. In the old Swedish or Gothic constitution, wager of law was not only permitted, as it is in *criminal* cases, unless the fact be extremely clear against the prisoner; but was also absolutely required, in many *civil* cases: which an author of their own very justly charges as being the source of frequent perjury. This, he tells us, was owing to the Popish ecclesiastics, who introduced this method of purgation from their canon law; and, having sown a plentiful crop of oaths in all judicial proceedings, reaped afterwards an ample harvest of perjuries: for perjuries were punished in part by pecuniary fines, payable to the coffers of the church. But with us in England wager of law is never required; and then only admitted, where an action is brought upon such matters as may be supposed to be privately transacted between the parties, and where in the defendant may be presumed to have made satisfaction without being able to prove it. Therefore it is only in actions of debt upon simple contract, or for amercement, in actions of detinue, and of account, where the debt may have been paid, the goods restored, or the account balanced, without any evidence of either. And by such wager of law (when admitted) the plaintiff is perpetually barred; for the law, in the simplicity of the ancient times, presumed that no one

would forswear himself for any worldly thing. Wager of law, however, lieth in a real action, where the tenant alleges he was not legally summoned to appear, as well as in mere personal contracts.

The wager of law was never permitted but where the defendant bore a fair and unrepachable character; and it was also confined to such cases where a debt might be supposed to be discharged, or satisfaction made in private, without any witnesses to attest it: and many other prudential restrictions accompanied this indulgence. But at length it was considered, that (even under all its restrictions) it threw too great a temptation in the way of indigent or profligate men: and therefore by degrees new remedies were devised, and new forms of action were introduced, wherein no defendant is at liberty to wage his law. So that now no plaintiff need at all apprehend any danger from the hardness of his debtor's conscience, unless he voluntarily chooses to rely on his adversary's veracity, by bringing an obsolete, instead of a modern, action. Therefore, one shall hardly hear at present of an action of *debt* brought upon a simple contract: that being supplied by an action of *trespass on the case* for the breach of a promise or *assumpsit*; wherein, though the specific debt cannot be recovered, yet damages may, equivalent to the specific debt. And, this being an action of *trespass*, no law can be waged therein. So, instead of an action of *detinue* to recover the very thing detained, an action of *trespass on the case* in *trover and conversion* is usually brought; wherein, though the horse or other specific chattel cannot be had, yet the defendant shall pay damages for the conversion, equal to the value of the chattel; and for this *trespass* also no wager of law is allowed. In the room of actions of *account*, a bill in equity is usually filed: wherein, though the defendant answers upon his oath, yet such oath is not conclusive to the plaintiff; but he may prove every article by other evidence, in contradiction to what the defendant has sworn. So that wager of law is quite out of use, being avoided by the mode of bringing the action; but still it is not out of force. And therefore, when a new statute inflicts a penalty, and gives an action of debt for recovering it, it is usual to add, "in which no wager of law shall be allowed:" otherwise an hardy delinquent might escape any penalty of the law, by swearing he had never incurred, or else had discharged it.

Custom-House Laws. The expedient of exacting duties on goods imported, or exported, has been adopted by every commercial nation in Europe. The attention of the British legislature has not been confined to the object of raising a revenue alone, but they have attempted by duties, exemptions, drawbacks, bounties, and other regulations, to direct the national trade into those channels that contribute most to the public benefit. And, in order to obtain every requisite information, all goods, exported or imported, whether liable to duty or not, are required to be entered at the respective custom-houses; and, from these entries, accounts are regularly made up of the whole British trade, distinguishing the articles, their quantity and value, and the countries which supply or receive them.

The objects of the British legislature may be reduced to the following heads:

First,

Custom-house Laws.

Custom-
house
Laws.

First, To encourage the employment of British shipping and seamen, for the purpose of supplying our navy when public exigencies require.

Secondly, To increase the quantity of money in the nation, by prohibiting the exportation of British coin, by encouraging exportation, and discouraging importation, and by promoting agriculture, fisheries, and manufactures. For these purposes, it is penal to entice certain manufacturers abroad, or export the tools used in their manufactures; the exportation of raw materials is, in most instances, prohibited; and their importation permitted free from duty, and sometimes rewarded with a bounty. The exportation of some goods, manufactured to a certain length only (for example white cloth), is loaded with a duty, but permitted duty-free when the manufacture is carried to its full extent. The importation of rival manufactures is loaded with heavy duties, or absolutely prohibited. These restrictions are most severe towards nations with which the balance of trade is supposed against us, or which are considered as our most formidable rivals in power or commerce. Upon this principle the commerce with France, till lately, laboured under the heaviest restrictions.

Thirdly, To secure us plenty of necessaries for subsistence and manufacture, by discouraging the exportation of some articles that consume by length of time, and regulating the corn-trade according to the exigencies of the seasons.

Fourthly, To secure the trade of the colonies to the mother-country, and preserve a mutual intercourse, by encouraging the produce of their staple-commodities, and restraining their progress in these manufactures which they receive from us in exchange.

*Hamilton's
Introduction
to Merchant-
ship.*

The foundation of our commercial regulations is the famous act of navigation, which was first enacted during the time of the commonwealth, and adopted by the first parliament after the restoration. The substance of this act, and subsequent amendments, is as follows.

1. Goods from Asia, Africa, and America, may not be imported, except in British ships duly navigated, or ships belonging to the British plantations; and they can only be imported from the place of their production or manufacture, or the port where they are usually first shipped for transportation. Goods of the Spanish or Portuguese plantations, imported from Spain and Portugal in British ships, bullion and some other inconsiderable articles are excepted.

The restriction on European goods is not universal, but extends to several of the bulkiest articles. Russian goods, masts, timber, boards, salt, pitch, rosin, tar, hemp, flax, raisins, figs, prunes, olives, oil, corn, sugar, potashes, wine, and vinegar, may not be imported, except in ships belonging to Great Britain or Ireland, legally manned; nor Turkey goods and currants, except in ships British built; or in ships belonging to the country where these goods are produced or manufactured, or first shipped for exportation; and, if imported in foreign ships, they pay alien's duty.

In order to intitle a ship to the privileges of a British ship, it must be built in Britain, and belong entirely to British subjects; and the master, and three-fourths of the mariners, must be British subjects, except in case of death, or unavoidable accidents. In

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time of war, the proportion of British mariners required is generally confined to one-fourth; and the same proportion only is required in the Greenland fishery.

No goods may be imported into, or exported from, the plantations in Asia, Africa, or America, except in ships built in Britain, Ireland, or the plantations, or prize-ships, manned by British subjects, duly registered, and legally navigated.

The following goods, enumerated in the act of navigation and subsequent acts, may not be exported from the plantations, except to some other plantation or to Britain: Tobacco, cotton-wool, indigo, ginger, fustic, and other dying wood, molasses, hemp, copper-ore, beaver-skins and other furs, pitch, tar, turpentine, masts, yards, and bolspirts, coffee, pymento, cocoa-nuts, whale fins, raw silk, pot and pearl ashes. Rice and sugar were formerly comprehended in this list, but their exportation is now permitted under certain restrictions.

Iron may not be imported to Europe, except to Ireland; and none of the non-enumerated may be imported to any country north of Cape Finisterre, except the Bay of Biscay and Ireland.

2. For the more effectual prevention of smuggling, no goods may be imported in vessels belonging to British subjects, and no wine, in any vessel whatever, unless the master have a manifest on board, containing the name, measure, and built of the ship, the place to which it belongs, and a distinct enumeration of the goods on board, and places where they were laden. If the ship be cleared from any place under his Majesty's dominions, the manifest must be attested by the chief officer of the customs, or chief magistrate, who is required to transmit a copy thereof to the place of destination. Ship-masters must deliver copies of this manifest to the first custom-house officer who goes on board within four leagues of the shore, and also to the first who goes on board within the limits of any port, and must deliver the original manifest to the custom-house at their arrival, and make report of their cargo upon oath. If the report disagree with the manifest, or either disagree with the cargo on board, the ship-master is liable in the penalty of L. 200. The proprietors of the goods must enter them, and pay the duties within 20 days; otherwise they may be carried to the custom-house, and sold by auction, if not relieved within six months; and the overplus of the value, after paying duty and charges, paid to the proprietors.

3. The importation of cattle, beef, mutton, and pork, except from Ireland, woollen cloths, malt, and various articles of hardware, cutlery, and earthen ware, is prohibited: Also the following goods from Germany and the Netherlands; olive oil, pitch, tar, potashes, rosin, salt, tobacco, wines, except Rhenish wine, and Hungary wines from Hamburg.

4. The importation of various other goods is restricted by particular regulations respecting the time and place of importation, the packages, the burden of the ship, the requisition of a licence, and other circumstances.

To guard more effectually against clandestine trade, the importation of some articles is only permitted in ships of a certain burden, whose operations are not easily concealed. Spirits must be imported in ships of

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100 tons or upwards, except rum, and spirits of British plantations, which are only restricted to 70 tons; wine, 60 tons; tea, tobacco, and snuff, 50 tons; salt, 40 tons. Wine, spirits, and tobacco are also restricted in respect of the packages in which they may be imported.

5. Diamonds and precious stones, flax, flax-seed, linen-rags, beaver-wool, wool for clothiers, linen-yarn unbleached, and most drugs used in dying, may be imported duty free.

6. All goods imported are liable to duties, except such as are expressly exempted. The revenue of customs is of great antiquity in Britain, but was new-modelled at the restoration of Charles II. A subsidy of tonnage on wines, and of poundage, or 1 s. per pound value of other goods, was granted during the king's life, and, after several prolongations, rendered perpetual. A book of rates was composed for ascertaining these values; and articles not rated paid duty according to the value, as affirmed upon oath by the importer. If the goods be valued too low by the importer, the custom-house officer may seize them, upon paying to the proprietor the value he swore to, and 10 per cent. for profit; such goods to be sold, and the overplus paid into the customs. Various additional duties have been imposed; some on all goods, some on particular kinds; some according to the rates, some unconnected with the rates; some with an allowance of certain abatements, some without any allowance; the greater part to be paid down in ready money, and a few for which security may be granted; often with variations, according to the ship's place and circumstances of importation. The number of branches amounted to upwards of 50; and sometimes more than 10 were chargeable on the same articles. By this means, the revenue of the customs has be-

come a subject of much intricacy. The inconveniences which this gave rise to are now removed by the consolidation act; which appoints one fixed duty for each article free from fractions, instead of the various branches to which they were formerly subject.

7. Goods of most kinds may be exported duty free when regularly entered; and those that have paid duty on importation are generally intitled to drawback of part, sometimes of the whole, when re-exported within three years, upon certificate that the duties were paid on importation, and oath of their identity. In some cases, a bounty is given on manufactured goods, when the materials from which they are manufactured have paid duty on importation; and manufactures subject to excise, have generally the whole or part of the excise duties returned.

8. The following goods are prohibited to be exported; white-ashes, horns, unwrought hides of black-cattle, tallow, coin, brass, copper, engines for knitting stockings, tools for cotton, linen, woollen, silk, iron, and steel manufactures; wool, woolfells, woollen yarn, fullers earth, fulling clay, and tobacco pipe-clay.

9. The object of the laws respecting the corn-trade is to encourage agriculture, by not only permitting the free exportation, but rewarding it with a bounty when the prices are low, and checking the importation by a heavy duty; and, to prevent scarcity, by prohibiting the exportation when the prices are high, and permitting importation at an easy duty. Various temporary laws have been enacted for these purposes, and sometimes other expedients employed in times of scarcity, such as prohibiting the distillery from corn, and manufacture of starch: And by a permanent law 1773, the low duties and bounties are regulated as under:

	Low duty.		Bounty.	
Wheat at or above	48 s.	per qr 6 d.	under 44 s.	5 s.
Rye, -	32 s.	3 d.	28 s.	3 s.
Pease and beans,	32 s.	3 d.	28 s.	no bounty.
Oats, -	16 s.	2 d.	14 s.	2 s.
Barley, -	24 s.	2 d.	22 s.	2 s. 6 d.

The duties, when the prices are lower than in the first column, amount to a prohibition. When the prices are higher than in the column prefixed to the bounty, no exportation is permitted. When oats are under the bounty price, oatmeal is intitled to a bounty of 2 s. 6 d. per quarter.

10. Bounties are allowed on the exportation of refined sugar, sail-cloth, linen under limited prices, silk stuffs of British manufacture, cordage, spirits when barley is under 24 s. beef, pork, and the following kinds of fish, salmon, herrings, pilchards, cod, ling, flake, and sprats.

Various other bounties are allowed for the encouragement of our fisheries. Ships from 150 to 300 tons employed in the Greenland whale-fishery, and conforming to the regulations prescribed, are allowed 30 s. per ton. Vessels employed in the herring-fishery receive 20 s. per ton, besides a bounty on the herrings caught and cured, amounting in some cases to 4 s. per barrel. Other bounties are granted to a limited number of the most successful vessels employed in the her-

ring and Newfoundland fisheries, and in the southern whale-fishery.

It is unnecessary and impracticable, in this place, to enter into a full detail of our custom-house laws. Indeed, all that can be admitted into a work of this kind, must convey but very imperfect information; and even that little becomes useless in a short time from alterations in the law. We have therefore only marked the general outlines in the present article; which, however, will be sufficient to enable the reader to judge of the principles upon which the British legislature has acted. How far the means employed have contributed to the ends proposed, and how far the ends themselves are always wise; or whether a trade encumbered by fewer restrictions would not prove more extensive and beneficial; has been a subject of much discussion: and of late a more liberal system has been embraced in our commercial treaty with France, and in other regulations.

Mercantile Laws. The laws relating to commercial and maritime affairs approach nearer to uniformity

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through the different countries of Europe, than those on other subjects. Some of the fundamental regulations have been taken from the Roman law; others have been suggested by experience, during the progress of commerce; and the whole have been gradually reduced to a system, and adopted into the laws of trading nations, but with some local varieties and exceptions.

The British legislature has enacted many statutes respecting commerce; yet the greater part of our mercantile law is to be collected from the decisions of our courts of justice, founded on the custom of merchants. A proof of such custom, where no direct statute interferes, determines the controversy, and becomes a precedent for regulating like cases afterwards. The existence of a custom not formerly recognised, is, in England, determined by a jury of merchants.

The most common mercantile contracts are those between buyer and seller; between factor and employer; between partners; between the owners, masters, mariners, and freighters of ships; between insurers and the owners of the subject insured; and between the parties concerned in transacting bills of exchange. See FACTORAGE, SALE, PARTNERSHIP, INSURANCE, BILL, &c. and the next article.

Maritime Laws. The most ancient system of maritime laws is that of Rhodes, which was in force during the time of the Grecian empire, and afterwards incorporated into the Roman law. Although, in some parts, not applicable to the present state of trade, and, in others, now hardly intelligible, it contains the groundwork of the most equitable and beneficial rules observed in modern commerce. A like system was set forth by Richard I. of England, called the *Statutes of Oleron*; and another, by the town of Wisby, in the island of Gothland. From these systems, improved and enlarged in the course of time, our general maritime law is derived. The jurisdiction of matters purely maritime belongs, in England, to the court of admiralty, which proceeds on the civil law; but their proceedings are subject to the controul, and their decisions to the review, of the superior courts.

We shall here consider the obligations which subsist between the masters or owners of ships, the freighters, and the furnishers of provisions or repairs.

1. *Masters and Freighters.* A charter-party is a contract between the master and freighters, in which the ship and voyage is described, and the time and conditions of performing it are ascertained.

The freight is most frequently determined for the whole voyage, without respect to time. Sometimes it depends on the time.

In the former case, it is either fixed at a certain sum for the whole cargo; or so much *per ton*, barrel-bulk, or other weight or measure; or so much *per cent.* on the value of the cargo. This last is common on goods sent to America; and the invoices are produced to ascertain the value.

The burden of the ship is generally mentioned in the contract, in this manner, *one hundred tons, or thereby*; and the number mentioned ought not to differ above 5 tons, at most, from the exact measure. If a certain sum be agreed on for the freight of the ship, it must all be paid, although the ship, when measured, should prove less, unless the burden be warranted. If the

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ship be freighted for *transporting* cattle, or slaves, at so much a head, and some of them die on the passage, freight is only due for such as are delivered alive; but, if for *lading* them, it is due for all that were put on board.

When a whole ship is freighted, if the master suffers any other goods besides those of the freighter to be put on board, he is liable for damages.

It is common to mention the number of days that the ship shall continue at each port to load or unload. The expression used is, *work weather days*; to signify, that Sundays, holidays, and days when the weather stops the work, are not reckoned. If the ship be detained longer, a daily allowance is often agreed on, in name of *demurrage*.

If the voyage be completed in terms of the agreement, without any misfortune, the master has a right to demand payment of the freight before he delivers the goods. But if the safe delivery be prevented by any fault or accident, the parties are liable, according to the following rules.

If the merchant do not load the ship within the time agreed on, the master may engage with another, and recover damages.

If the merchant load the ship, and recal it after it has set sail, he must pay the whole freight; but if he unload it before it sets sail, he is liable for damages only.

If a merchant loads goods which it is not lawful to export, and the ship be prevented from proceeding on that account, he must pay the freight notwithstanding.

If the shipmaster be not ready to proceed on the voyage at the time agreed on, the merchant may load the whole, or part of the cargo, on board another ship, and recover damages; but chance, or notorious accident, by the marine law, releases the master from damages.

If an embargo be laid on the ship before it sails, the charter-party is dissolved, and the merchant pays the expence of loading and unloading; but if the embargo be only for a short limited time, the voyage shall be performed when it expires, and neither party is liable for damages.

If the shipmaster sails to any other port than that agreed on, without necessity, he is liable for damages; if through necessity, he must sail to the port agreed on, at his own expence.

If a ship be taken by the enemy, and retaken or ransomed, the charter-party continues in force.

If the master transfer the goods from his own ship to another, without necessity, and they perish, he is liable for the value; but if his own ship be in imminent danger, the goods may be put on board another ship at the risk of the owner.

If a ship be freighted out and home, and a sum agreed on for the whole voyage, nothing is due till it return; and the whole is lost if the ship be lost on the return.

If a certain sum be specified for the homeward voyage, it is due, although the factor abroad should have no goods to send home.

In the case of a ship freighted to Madeira, Carolina, and home, a particular freight fixed for the homeward voyage, and an option reserved for the factor at

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Law. Carolina to decline it, unless the ship arrived before 1st of March: the shipmaster, foreseeing he could not arrive there within that time, and might be disappointed of a freight, did not go there at all. He was found liable in damages, as the obligation was absolute on his part, and conditional only on the other.

If the goods be damaged without fault of the ship or master, the owner is not obliged to receive them and pay freight, but he must either receive the whole, or abandon the whole; he cannot choose those that are in best order, and reject the others. If the goods be damaged through the insufficiency of the ship, the master is liable for the same; but, if it be owing to stress of weather, he is not accountable. It is customary for shipmasters, when they suspect damage, to take a *protest against wind and weather* at their arrival. But as this is the declaration of a party, it does not bear credit, unless supported by collateral circumstances.

If part of the goods be thrown over-board, or taken by the enemy, the part delivered pays freight.

The shipmaster is accountable for all the goods received on board, by himself or mariners, unless they perish by the act of God, or of the king's enemies.

Shipmasters are not liable for leakage on liquors; nor accountable for the contents of packages, unless packed and delivered in their presence.

Upon a principle of equity, that the labourer is worthy of his hire, differences arising with regard to freight, when the case is doubtful, ought rather to be determined in favour of the shipmaster.

2. *Ship and Owners with Creditors.* When debts are contracted for provisions or repairs to a ship, or arise from a failure in any of the above mentioned obligations, the ship and tackle, and the owners, are liable for the debt, as well as the master.

By the mercantile law, the owners are liable in all cases, without limitation; but by statute, they are not liable for embezzlement beyond their value of ship, tackle, and freight.

A shipmaster may pledge his ship for necessary repairs during a voyage; and this hypothecation is implied by the maritime law when such debts are contracted. This regulation is necessary, and is therefore adopted by all commercial nations; for, otherwise, the master might not find credit for necessary repairs, and the ship might be lost. If repairs be made at different places, the last are preferable.

The relief against the ship is competent to the court of admiralty in England, only when repairs are furnished during the course of a voyage; for the necessity of the case extends no further. If a ship be repaired at home (*e. g.* upon the river Thames), the creditor is only intitled to relief at common law.

The creditor may sue either the masters or owners; but if he undertook the work on the special promise of the one, the other is not liable.

If the master buys provisions on credit, the owners are liable for the debt, though they have given him money to pay them.

If a ship be mortgaged, and afterwards lost at sea, the owners must pay the debt; for the mortgage is only an additional security, though there be no express words to that purpose in the covenant.

Law. If a ship be taken by the enemy, and ransomed, the owners are liable to pay the ransom, though the ransomer die in the hands of the captors.

3. *Owners of ship and cargo with each other.* There is a mutual obligation which subsists between all the owners of a ship and cargo. In time of danger, it is often necessary to incur a certain loss of part for the greater security of the rest; to cut a cable; to lighten the ship, by throwing part of the goods overboard; to run it ashore; or the like: and as it is unreasonable that the owners of the thing exposed for the common safety should bear the whole loss, it is defrayed by an equal contribution among the proprietors of the ship, cargo, and freight. This is the famous *Lex Rhodia de jactu*, and is now called a *general average*.

The custom of valuing goods which contribute to a general average, is not uniform in all places. They are generally valued at the price they yield at the port of destination, charges deducted; and goods thrown overboard are valued at the price they would have yielded there. Sailors' wages, cloaths and money belonging to passengers, and goods belonging to the king, pay no general average; but proprietors of gold and silver, in case of goods being thrown overboard, contribute to the full extent of their interest.

The following particulars are charged as general average: Damage sustained in an engagement with the enemy; attendance on the wounded, and rewards given for service in time of danger, or gratuities to the widows or children of the slain; ransom; goods given to the enemy in the nature of ransom; charges of bringing the ship to a place of safety when in danger from the enemy, or waiting for convoy; charges of quarantine; goods thrown overboard; masts or rigging cut; holes cut in the ship to clear it of water; pilotage, when a lake is sprung; damage, when voluntarily run aground, and expence of bringing it afloat; goods lost by being put in a lighter; the long-boat lost in lightening the ship in time of danger; hire of cables and anchors; charges of laying in ballast, victualling, and guarding the ship when detained; charges at law, in reclaiming the ship and cargo; interest and commission on all these disbursements.

Though goods put on board a lighter, and lost, are charged as a general average; yet if the lighter be saved, and the ship with the rest of the goods be lost, the goods in the lighter belong to their respective proprietors, without being liable to any contribution.

If part of the goods be plundered by a pirate, the proprietor or shipmaster is not intitled to any contribution.

The essential circumstances that constitute a general average are these; the loss must be the effect of a voluntary action; and the object of that action the common safety of the whole. Quarantine, which is allowed, seems not to fall within this description.

4. *Quarantine.* See QUARANTINE.

5. *Wrecks.* See WRECK.

6. *Impress.* See IMPRESSING.

7. *Insurance.* See INSURANCE.

Game-Laws. See the article GAME.

Sir William Blackstone, treating of the alterations in our laws, and mentioning franchises granted of chase and free warren, as well to preserve the breed of animals,

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mals, as to indulge the subject, adds, "From a similar principle to which, though the forest-laws are now mitigated, and by degrees grown entirely obsolete; yet from this root has sprung a *bastard slip*, known by the name of the *game-law*, now arrived to and wanting in its highest vigour: both founded upon the same unreasonable notion of permanent property in wild creatures; and both productive of the same tyranny to the commons; but with this difference, that the forest-laws established only one mighty hunter throughout the land; *the game laws have raised a little Nimrod in every manor*. And in one respect the ancient law was much less unreasonable than the modern; for the king's grantee of a chase or free-warren, might kill game in every part of his franchise; but now, though a freeholder of less than L. 100 a year is forbidden to kill partridge upon his own estate, yet nobody else (not even the lord of the manor, unless he hath a grant of free warren) can do it without committing a trespass and subjecting himself to an action.

Under the article GAME, the destroying such beasts and fowls as are ranked under that denomination, was observed (upon the old principles of the forest-law) to be a trespass and offence in all persons alike, who have not authority from the crown to kill game (which is royal property) by the grant of either a free warren, or at least a manor of their own. But the laws called the *game-laws* have also inflicted additional punishments (chiefly pecuniary) on persons guilty of this general offence, unless they be people of such rank or fortune as is therein particularly specified. All persons, therefore, of what property or distinction soever, that kill game out of their own territories, or even upon their own estates, without the king's licence expressed by the grant of a franchise, are guilty of the first original offence of encroaching on the royal prerogative. And those indigent persons who do so, without having such rank or fortune as is generally called a *qualification*, are guilty, not only of the original offence, but of the aggravations also created by the statutes for preserving the game: which aggravations are so severely punished, and those punishments so implacably inflicted, that the offence against the king is seldom thought of, provided the miserable delinquent can make his peace with the lord of the manor. The only rational footing upon which this offence, thus aggravated, can be considered as a crime, is, that in low and indigent persons it promotes idleness, and takes them away from their proper employments and callings: which is an offence against the public police and economy of the commonwealth.

The statutes for preserving the game are many and various, and not a little obscure and intricate; it being remarked, that in one statute only, 5 Ann. c. 14. there is false grammar in no fewer than six places, besides other mistakes: the occasion of which, or what denomination of persons were probably the penners of these statutes, it is unnecessary here to inquire. It may be in general sufficient to observe, that the *qualifications* for killing game, as they are usually called, or more properly the exemptions from the penalties inflicted by the statute law, are, 1. The having a freehold estate of L. 100 *per annum*; there being fifty times the property required to enable a man to kill a partridge, as to vote for a knight of the shire. 2. A

leasehold for 99 years of L. 150 *per annum*. 3. Being the son and heir apparent of an esquire (a very loose and vague description) or person of superior degree. 4. Being the owner or keeper of a forest, park, chase, or warren. For unqualified persons transgressing these laws, by killing game, keeping engines for that purpose, or even having game in their custody, or for persons (however qualified) that kill game, or have it in possession, at unseasonable times of the year, or unseasonable hours of the day or night, on Sundays or on Christmas day, there are various penalties assigned, corporal and pecuniary, by different statutes (after-mentioned), on any of which, but only on one at a time, the justices may convict in a summary way, or (in most of them) prosecutions may be carried on at the assizes. And, lastly, by statute 28 Geo. II. c. 12. no person, however qualified to kill, may make merchandise of this valuable privilege, by selling or exposing to sale any game, on pain of like forfeiture as if he had no qualification.

The statutes above referred to are as follow. No person shall take pheasants or partridges with engines in another man's ground, without licence, on pain of 10l. stat. 11 Hen. VII. c. 13. If any person shall take or kill any pheasants or partridges with any net in the night-time, they shall forfeit 20s. for every pheasant, and 10s. for every partridge taken; and hunting with spaniels in standing corn, incurs a forfeiture of 40s. 23 Eliz. c. 10. Those who kill any pheasant, partridge, duck, heron, hare, or other game, are liable to a forfeiture of 20s. for every fowl and hare; and selling, or buying to sell again, any hare, pheasant, &c. the forfeiture is 10s. for each hare, &c. 1 Jac. I. c. 17. Also pheasants or partridges are not to be taken between the first of July and the last of August, on pain of imprisonment for a month, unless the offenders pay 20s. for every pheasant, &c. killed: and constables, having a justice of peace's warrant, may search for game and nets, in the possession of persons not qualified by law to kill game or to keep such nets, 7 Jac. I. c. 11. Constables, by a warrant of a justice of peace, are to search houses of suspected persons for game: and if any game be found upon them, and they do not give a good account how they came by the same, they shall forfeit for every hare, pheasant, or partridge, not under 5s. nor exceeding 20s. And inferior tradesmen hunting, &c. are subject to the penalties of the act, and may likewise be sued for trespass. If officers of the army or soldiers kill game without leave, they forfeit 5l. an officer, and 10s. a soldier; 4 & 5 W. and M. c. 23. Higglers, chapmen, carriers, inn-keepers, victuallers, &c. having in their custody hare, pheasant, partridge, heath-game, &c. (except sent by some person qualified to kill game), shall forfeit for every hare and fowl 5l. to be levied by distress and sale of their goods, being proved by one witness, before a justice; and for want of distress shall be committed to the house of correction for three months: one moiety of the forfeiture to the informer, and the other to the poor. And selling game, or offering the same to sale, incurs the like penalty; wherein hare and other game found in a shop, &c. is adjudged an exposing to sale: killing hares in the night is liable to the same penalties: and if any persons shall drive wild-fowls with nets, between the first day of July and

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and the first of September, they shall forfeit 5s. for every fowl; 5 Ann. c. 14. 9 Ann. c. 25. If any unqualified person shall keep a gun, he shall forfeit 10l.; and persons being qualified may take guns from those that are not, and break them; 21 & 22 Car. II. c. 25. and 33 H. VIII. c. 6. One justice of peace, upon examination and proof of the offence, may commit the offender till he hath paid the forfeiture of 10l. And persons, not qualified by law, keeping dogs, nets, or other engines to kill game, being convicted thereof before a justice of peace, shall forfeit 5l. or be sent to the house of correction for three months; and the dogs, game, &c. shall be taken from them, by the statute 5 Ann. If a person hunt upon the ground of another, such other person cannot justify killing of his dogs, as appears by 2 Roll. Abr. 567. But it was otherwise adjudged Mich. 33 Car. II. in C. B. 2 Cro. 44. and see 3. Lev. xxviii. In actions of debt, *qui tam*, &c. by a common informer on the statute 5 Ann. for 15l. wherein the plaintiff declared on two several counts, one for 10l. for killing two partridges, the other for 5l. for keeping an engine to destroy the game, not being qualified, &c. the plaintiff had a verdict for 5l. only: this action was brought by virtue of the stat. 8 Geo. I. See stat. 9 Geo. I. c. 22. See likewise 24 Geo. II. c. 34. for the better preservation of the game in Scotland. By the stat. 26 Geo. II. c. 2. all suits and actions brought by virtue of stat. 8 Geo. I. c. — for the recovery of any pecuniary penalty, or sum of money, for offences committed against any law for the better preservation of the game, shall be brought before the end of the second term after the offence committed.

By 28 Geo. II. c. 12. persons selling, or exposing to sale, any game, are liable to the penalties inflicted by 5 Ann. c. 14. on higglers, &c. offering game to sale: and game found in the house or possession of a poulterer, salesman, fishmonger, cook, or pastry-cook, is deemed exposing thereof to sale.

By 2 Geo. III. c. 19. after the 1st June 1762, no person may take, kill, buy or sell, or have in his custody, any partridge, between 12th February and 1st September, or pheasant between 1st February and 1st October, or heath-fowl between 1st January and 20th August, or grouse between 1st December and 25th July, in any year; pheasants taken in their proper season, and kept in mews, or breeding places, excepted: and persons offending in any of the cases aforesaid, forfeit 5l. per bird, to the prosecutor, to be recovered, with full costs, in any of the courts at Westminster. By this act, likewise, the whole of the pecuniary penalties under the 8 Geo. I. c. 19. may be sued for, and recovered to the sole use of the prosecutor, with double costs; and no part thereof to go to the poor of the parish.

By 5 George III. c. 14. persons convicted of entering warrens in the night-time, and taking or killing coney there, or aiding or assisting therein, may be punished by transportation, or by whipping, fine, or imprisonment. Persons convicted on this act, not liable to be convicted under any former act. This act does not extend to the destroying coney in the day-time, on the sea and river-banks in the county of Lincoln, &c. No satisfaction to be made for damages occasioned by entry, unless they exceed 1s. It may not be improper to mention an act lately made,

and not yet repealed, viz. 10 Geo III. c. 19. for preservation of the game, which shows the importance of the object. It is thereby enacted, That if any person kill any hare, &c. between sun-setting and sun-rising, or use any gun, &c. for destroying game, shall for the first offence be imprisoned for any time not exceeding six nor less than three months: if guilty of a second offence, after conviction of a first, to be imprisoned for any time not exceeding 12 months nor less than six; and shall also, within three days after the time of his commitment, either for the first or for any other offence, be once publicly whipped.

By 25 George III. c. 50. and 31 George III. c. 21. every person in Great Britain (the royal family excepted), who shall, after July 1. 1785, use any dog, gun, net, or other engine, for the taking or destruction of game (not as acting as gamekeeper), shall deliver in a paper or account in writing, containing his name and place of abode, to the clerk of the peace or his deputy, and annually take out a certificate thereof; and every such certificate shall be charged with a stamp-duty of L. 2, 2s. (and an additional L. 1, 1s. by 31 Geo. III. c. 21.) making in the whole L. 3, 3s.—Every deputation of a gamekeeper shall be registered with the clerk of the peace, and such gamekeeper shall annually take out a certificate thereof; which certificate shall be charged with a stamp duty of 10s. 6d. (and an additional 10s. 6d. by 31 Geo. III. c. 21), making in the whole L. 1, 1s.—The duties to be under the management of the commissioners of the stamp-office.

From and after the said 1st of July 1785, the clerk of the peace shall annually deliver to persons requiring the same, duly stamped, a certificate or licence according to the form therein mentioned, for which he shall be intitled to demand 1s. for his trouble; and on refusal or neglect to deliver the same, forfeit L. 20.—Every certificate to bear date the day when issued, and to continue in force until the 1st day of July then following, on penalty of 20l.

After the 1st day of July 1785, any person that shall use any greyhound, hound, pointer, setting-dog, spaniel, or other dog, or any gun, net, or engine, for taking or killing of game, without a certificate, is liable to the penalty of 20l. And if any gamekeeper shall, for the space of 20 days after the said 1st day of July, or if any gamekeeper thereafter to be appointed shall, for the space of 20 days next after such appointment, neglect or refuse to register his deputation and take out a certificate thereof, he is liable to the penalty of 20l.

The clerks of the peace are to transmit to the stamp-office in London alphabetical lists of the certificates granted in every year before the 1st day of August, under penalty of 20l. These lists are to be kept at the stamp-office in London, and there to be inspected on payment of 1s.: And the commissioners of the stamp duties are, once or oftener in every year, as soon as such lists are transmitted to them, to cause the same to be published in the newspapers circulating in each county, or such public paper as they shall think most proper.

If any gamekeeper, who shall have registered his deputation, and taken out a certificate thereof, shall be changed, and a new gamekeeper appointed in his stead, the first certificate is declared null and void, and

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and the person acting under the same after notice, is liable to the penalty of 20l. And any person in pursuit of game, who shall refuse to produce his certificate, or to tell his name and place of abode, or shall give in any false or fictitious name or place of abode to any person requiring the same, who shall have obtained a certificate, is liable to the penalty of 50l.

The certificates are not to authorise persons to kill game at any time prohibited by law, nor to give any person any right to kill game, unless such person shall be qualified so to do by the laws now in being, but shall be liable to the same penalties as if this act had not passed. [So that though by this act qualified and unqualified persons are equally included, yet having a certificate does not give an unqualified person a right to kill game: the point of right still stands upon the former acts of parliament; and any unqualified person killing game without a certificate, is not only liable to the penalty inflicted by this act, but also to all the

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former penalties relating to the killing of game, &c.]

Witnesses refusing to appear on justices summons, or appearing and refusing to give evidence, forfeit 10l. The certificates obtained under deputations, not to be given in evidence for killing of game by a gamekeeper out of the manor, in respect of which such deputation or appointment was given and made. Persons counterfeiting stamps to suffer death as felons.

Penalties exceeding 20l. are to be recovered in any of his majesty's courts of record at Westminster; and penalties not exceeding 20l. are recoverable before two justices, and may be levied by distress. The whole of the penalties go to the informer.

LAW (John), the famous projector, was the eldest son of a goldsmith burgess in Edinburgh, by Elizabeth Campbell heiress of Laurieston near that city; and was born about the year 1681. He was bred to no business; but possessed great abilities, and a very fertile invention. He had the address, when but a very young man, to recommend himself to the king's ministers in Scotland to arrange and fit the revenue accounts, which were in great disorder at the time of settling the equivalent before the union of the kingdoms. The attention of the Scottish parliament being also turned to the contrivance of some means for supplying the kingdom with money, and facilitating the circulation of specie, for want of which the industry of Scotland languished; he proposed to them, for these purposes, the establishment of a bank of a particular kind, which he seems to have imagined might issue paper to the amount of the whole value of all the lands in the country: but this scheme the parliament by no means thought it expedient to adopt.

His father dying about the year 1704, Law succeeded to the small estate of Laurieston; but the rents being insufficient for his expences, he had recourse to gaming. He was tall and graceful in his person, and much addicted to gallantry and finery; and giving a sort of ton at Edinburgh, he went commonly by the name of *Beau Law*. He was forced to fly his country, however, in the midst of his career, in consequence of having fought a duel and killed his antagonist; and in some of the French literary gazettes it is said that he run off with a married lady. In his

Law.

flight from justice he visited Italy; and was banished from Venice and Genoa, because he contrived to drain the youth of these cities of their money, by his superiority in calculation, that is, by being a cheat and a sharper. He wandered over all Italy, living on the event of the most singular bets and wagers, which seemed to be advantageous to those who were curious after novelty; but which were always of the most certain success with regard to him. He arrived at Turin, and proposed his system to the duke of Savoy, who saw at once, that, by deceiving his subjects, he would in a short time have the whole money of the kingdom in his possession: but that sagacious prince asking him how his subjects were to pay their taxes when all their money should be gone, Law was disconcerted, not expecting such a question.

Having been banished from Italy, and thus repulsed at Turin, Law proceeded to Paris, where he was already known as a projector. In the lifetime of Louis XIV. he had transmitted his schemes to Desmarest and to Chamillard, who had rejected them as dangerous innovations. He now proposed them to the Duc d'Orleans, who desired Noailles to examine them, to be as favourable in his report as possible, and to remark such of them as were practicable. Noailles called in the assistance of several merchants and bankers who were averse to the system. Law then proposed the establishment of a bank, composed of a company, with a stock of six millions. Such an institution promised to be very advantageous to commerce. An arret of the 2d March 1716 established this bank, by authority, in favour of Law and his associates; two hundred thousand shares were instituted of one thousand livres each; and Law deposited in it to the value of two or three thousand crowns which he had accumulated in Italy, by gaming or otherwise. This establishment very much displeased the bankers, because at the beginning business was transacted here at a very small premium, which the old financiers had charged very highly. Many people had at first little confidence in this bank; but when it was found that the payments were made with quickness and punctuality, they began to prefer its notes to ready money. In consequence of this, shares rose to more than 20 times their original value; and in 1719 their valuation was more than 80 times the amount of all the current specie in the kingdom. But the following year, this great fabric of false credit fell to the ground, and almost overthrew the French government, ruining some thousands of families; and it is remarkable, that the same desperate game was played by the South Sea directors in England, in the same fatal year, 1720. Law being exiled as soon as the credit of his projects began to fail, retired to Venice, where he died in 1729.

The principles upon which Law's original scheme was founded, are explained by himself in *A Discourse concerning Money and Trade*, which he published in Scotland where (as we have seen) he first proposed it. "The splendid but visionary ideas which are set forth in that and some other works upon the same principles (Dr Adam Smith observes), still continue to make an impression upon many people, and have perhaps in part contributed to that excess of banking which has of late been complained of both in Scotland and in other places."

LAW

Law.

Law.

Communicated by a friend of the Bishop's.

LAW (Edmund), D. D. bishop of Carlisle, was born in the parish of Cartmel in Lancashire, in the year 1703. His father, who was a clergyman, held a small chapel in that neighbourhood; but the family had been situated at Askham, in the county of Westmoreland. He was educated for some time at Cartmel school, afterwards at the free grammar-school at Kendal; from which he went, very well instructed in the learning of grammar schools, to St John's college in Cambridge.

Soon after taking his first degree, he was elected fellow of Christ-college in that university. During his residence in which college, he became known to the public by a Translation of Archbishop King's Essay upon the Origin of Evil, with copious notes; in which many metaphysical subjects, curious and interesting in their own nature, are treated of with great ingenuity, learning, and novelty. To this work was prefixed, under the name of a Preliminary Dissertation, a very valuable piece, written by the reverend Mr Gay of Sidney college. Our bishop always spoke of this gentleman in terms of the greatest respect. In the Bible and in the writings of Mr Locke, no man, he used to say, was so well versed.

He also, whilst at Christ-college, undertook and went through a very laborious part in preparing for the press an edition of Stephens's Thesaurus. His acquaintance, during this his first residence in the university, was principally with Dr Waterland, the learned master of Magdalen college; Dr Jortin, a name known to every scholar; and Dr Taylor, the editor of Demosthenes.

In the year 1737 he was presented by the university to the living of Graystock in the county of Cumberland, a rectory of about 300 l. a-year. The advowson of this benefice belonged to the family of Howards of Graystock, but devolved to the university, for this turn, by virtue of an act of parliament, which transfers to these two bodies the nomination to such benefices as appertain, at the time of the vacancy, to the patronage of a Roman catholic. The right, however, of the university was contested; and it was not till after a law-suit of two years continuance that Mr Law was settled in his living. Soon after this, he married Mary the daughter of John Christian, Esq; of Unerigg, in the county of Cumberland; a lady whose character is remembered with tenderness and esteem by all who knew her.

In 1743, he was promoted by Sir George Fleming, bishop of Carlisle, to the archdeaconry of that diocese; and in 1746 went from Graystock to reside at Salkeld, a pleasant village upon the banks of the river Eden, the rectory of which is annexed to the archdeaconry. Mr Law was not one of those who lose and forget themselves in the country. During his residence at Salkeld, he published Considerations on the Theory of Religion: to which were subjoined, Reflections on the Life and Character of Christ; and an Appendix concerning the use of the words Soul and Spirit in holy scripture, and the state of the dead there described.

Dr Keene held at this time, with the bishopric of Chester, the mastership of Peterhouse in Cambridge. Desiring to leave the university, he procured Dr Law to be elected to succeed him in that station. This took place in the year 1756; in which year Dr Law

resigned his archdeaconry in favour of Mr Eyre, a brother-in-law of Dr Keene. Two years before this, he had proceeded to his degree of Doctor in Divinity; in his public exercise for which, he defended the doctrine of what is usually called the "sleep of the soul."

About the year 1760, he was appointed head librarian of the university; a situation which, as it procured an easy and quick access to books, was peculiarly agreeable to his taste and habits. Some time after this, he was also appointed casuistical professor. In the year 1762, he suffered an irreparable loss by the death of his lady; a loss in itself every way afflicting, and rendered more so by the situation of his family, which then consisted of eleven children, many of them very young. Some years afterwards, he received several preferments, which were rather honourable expressions of regard from his friends than of much advantage to his fortune.

By Dr Cornwallis, then bishop of Litchfield, afterwards archbishop of Canterbury, who had been his pupil at Christ-college, he was appointed to the archdeaconry of Staffordshire, and to a prebend in the church of Litchfield. By his old acquaintance Dr Green, bishop of Lincoln, he was made a prebendary of that church. But in the year 1767, by the intervention of the duke of Newcastle, to whose interest, in the memorable contest for the high-stewardship of the university, he had adhered in opposition to some temptations, he obtained a stall in the church of Durham. The year after this, the duke of Grafton, who had a short time before been elected chancellor of the university, recommended the master of Peterhouse to his majesty for the bishopric of Carlisle. This recommendation was made not only without solicitation on his part or that of his friends, but without his knowledge, until the duke's intention in his favour was signified to him by the archbishop.

In or about the year 1777, our bishop gave to the public a handsome edition, in three volumes quarto, of the Works of Mr Locke, with a Life of the Author, and a Preface. Mr Locke's writings and character he held in the highest esteem, and seems to have drawn from them many of his own principles: He was a disciple of that school. About the same time he published a tract, which engaged some attention in the controversy concerning subscription; and he published new editions of his two principal works, with considerable additions, and some alterations.

Dr Law held the see of Carlisle almost 19 years; during which time he twice only omitted spending the summer months in his diocese at the bishop's residence at Rose Castle; a situation with which he was much pleased, not only on account of the natural beauty of the place, but because it restored him to the country, in which he had spent the best part of his life. In the year 1787 he paid this visit in a state of great weakness and exhaustion; and died at Rose about a month after his arrival there, on the 14th day of August, and in the 84th year of his age.

The life of the bishop of Carlisle was a life of incessant reading and thought, almost entirely directed to metaphysical and religious inquiries. Besides the works already mentioned, he published, in 1734 or 1735, a very ingenious *Inquiry into the Ideas of Space, Time, &c.* in which he combats the opinions of Dr Clarke and

Law.

and his adherents on these subjects: but the tenet by which his name and writings are principally distinguished, is "that Jesus Christ, at his second coming, will, by an act of his power, restore to life and consciousness the dead of the human species, who, by their own nature, and without this interposition, would remain in the state of insensibility to which the death brought upon mankind by the sin of Adam had reduced them." He interpreted literally that saying of St Paul, 1 Cor. xv. 21. "As by man came death, by man came also the resurrection of the dead." This opinion had no other effect upon his own mind than to increase his reverence for Christianity, and for its divine Founder. He retained it, as he did his other speculative opinions, without laying, as many are wont to do, an extravagant stress upon their importance, and without pretending to more certainty than the subject allowed of. No man formed his own conclusions with more freedom, or treated those of others with greater candour and equity. He never quarrelled with any person for differing from him, or considered that difference as a sufficient reason for questioning any man's sincerity, or judging meanly of his understanding. He was zealously attached to religious liberty, because he thought that it leads to truth; yet from his heart he loved peace. But he did not perceive any repugnancy in these two things. There was nothing in his elevation to his bishopric which he spoke of with more pleasure, than its being a proof that decent freedom of inquiry was not discouraged.

He was a man of great softness of manners, and of the mildest and most tranquil disposition. His voice was never raised above its ordinary pitch. His countenance seemed never to have been ruffled; it preserved the same kind and composed aspect, truly indicating the calmness and benignity of his temper. He had an utter dislike of large and mixed companies. Next to his books, his chief satisfaction was in the serious conversation of a literary companion, or in the company of a few friends. In this sort of society he would open his mind with great unreservedness, and with a peculiar turn and sprightliness of expression. His person was low, but well formed: his complexion fair and delicate. Except occasional interruptions by the gout, he had for the greatest part of his life enjoyed good health; and when not confined by that distemper, was full of motion and activity. About nine years before his death, he was greatly enfeebled by a severe attack of the gout in his stomach; and a short time after that, lost the use of one of his legs. Notwithstanding his fondness for exercise, he resigned himself to this change, not only without complaint, but without any sensible diminution of his cheerfulness and good-humour. His fault (for we are not writing a panegyric) was the general fault of retired and studious characters, too great a degree of inaction and facility in his public station. The modesty, or rather bashfulness of his nature, together with an extreme unwillingness to give pain, rendered him sometimes less firm and efficient in the administration of authority than was requisite. But it is the condition of human morality. There is an opposition between some virtues which seldom permits them to subsist together in perfection.

The bishop was interred with due solemnity in his cathedral church, in which a handsome monument is
N^o 179.

erected to his memory, bearing the following inscription:

Columnæ hujus sepultus est ad pedem
EDMUNDUS LAW, S. T. P.
per XIX fere annos hujusce ecclesiæ Episcopus.
In evangelica veritate exquirenda,
et vindicanda,
ad extremum usque senectutem,
operam navavit indefessam.
Quo autem studio et affectu veritatem,
eodem et libertatem Christianam coluit;
Religionem simplicem et incorruptam,
nisi salva libertate,
flare non posse arbitratus.
Obiit Aug. XIV. MDCCLXXXVII.
Ætat. LXXXIV.

LAWBURROWS, in Scots law. See LAW, Part III. N^o clxxxiii. 16.

LAWENBURG, Duchy, a territory of Germany, in the circle of Lower Saxony, bounded by the duchy of Holstein on the north and west, by the duchy of Mecklenburg on the east, and by the duchy of Lunenburgh, from which it is separated by the river Elbe, on the west; being about 85 miles long, and 20 broad. The chief towns are Lawenburg, Mollen, Wittemburg, and Ratzeburg. It belongs to the elector of Hanover.

LAWENBURG, a city of Germany in the circle of Lower Saxony, and capital of a duchy of the same name. It is a small but populous town, situated on the Elbe, under the brow of a very high hill, from whence there is a delightful prospect over the adjacent country. It has a castle on an eminence, and is convenient for trade. E. Long. 10. 51. N. Lat. 53. 36.

LAWENBURG, a town of Germany in Farther Pomerania, and the chief place of a territory of the same name, belonging to the elector of Brandenburg.

LAWERS, an eminent engraver, who flourished about the middle of the 16th century. He was a native of Flanders, and probably studied under Paul Pontius, whose style of engraving he frequently imitated. He possessed a considerable share of merit; but was by no means equal to that great master, either in the excellency of the handling of the graver, or knowledge of drawing. He engraved from several painters; but his best works are from the pictures of Rubens.

LAWES (Henry), a celebrated musician, and the Purcell of his time. He was a servant to Charles I. in his public and private music, and set some of the works of almost every poet of eminence in that reign. The Comus of Milton, and several of the lyrics of Waller, were set by him; and both these poets have done him honour in their verses. He composed a considerable number of psalm-tunes in the *Cantica Sacra*, for three voices and an organ; and many more of his compositions are to be seen in a work called *Select airs and dialogues*; also in the *Treasury of music*, and the *Musical companion*. He died in 1662.

LAWES (William), was brother to the former, and a most capital musician. He made above 30 several sorts of music for voices and instruments; nor was there any instrument then in use, but he composed to it as aptly as if he had studied that alone. In the music school at Oxford are two large manuscript volumes of

Lawbur-
rows
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Lawes.

Lawless
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Lawrence.

of his works in score for various instruments. He was a commissary under general Gerard in the civil war, and, to the great regret of the king, was killed at the siege of Chester in 1645.

LAWLESS COURT, a court said to be held annually on King's Hill at Rochford in Essex, on the Wednesday morning after Michaelmas-day at cock-crowing, where they whisper, and have no candle, nor any pen and ink, but only a coal. Persons who owe suit, or service, and do not appear, forfeit double their rent every hour they are missing.

This servile attendance, Camden informs us, was imposed on the tenants for conspiring at the like unreasonable hour to raise a commotion. The court belongs to the honour of Raleigh, and to the earl of Warwick; and is called *lawless*, from its being held at an unlawful hour.

LAWINGEN, a town of Germany, in the circle of Suabia; formerly imperial, but now subject to the duke of Neuburg. Here the duke of Bavaria, in 1704, fortified his camp to defend his country against the British forces and their allies commanded by the duke of Marlborough, who forced their intrenchments. It is seated on the Danube, in E. Long. 10. 29. N. Lat. 38. 32.

LAWN, a spacious plain in a park, or adjoining to a noble seat. As to the dimensions of a lawn: In a large park, it should be as extensive as the ground will permit; and, if possible, it should never be less than 50 acres: but in gardens of a moderate extent, a lawn of 10 acres is sufficient; and in those of the largest size, 15 acres. The best situation for a lawn is in the front of the house: and here, if the house front the east, it will be extremely convenient; but the most desirable aspect for a lawn is that of the south-east. As to the figure of the lawn, some recommend an exact square, others an oblong square, some an oval, and others a circular figure: but neither of these are to be regarded. It ought to be so contrived, as to suit the ground; and there should be trees planted for shade on the boundaries of the lawn, so the sides may be broken by irregular plantations of trees, which, if there are not some good prospects beyond the lawn, should bound it on every side, and be brought round pretty near to each end of the house. If in these plantations round the lawn, the trees are placed irregularly, some breaking much forwarder on the lawn than others, and not crowded too close together, they will make a better appearance than any regular plantations can possibly do; and if there are variety of trees, properly disposed, they will have a good effect; but only those which make a fine appearance, and grow large, straight, and handsome, should be admitted here. The most proper trees for this purpose, are the elm, oak, chestnut, and beech; and if there are some clumps of ever-green trees intermixed with the others, they will add to the beauty of the whole, especially in the winter-season; the best sorts for this purpose are lord Weymouth's pine, and the silver and spruce firs.

LAWN, in manufactures, a fine sort of linen, remarkable for being used in the sleeves of bishops.

LAWRENCE (St), the largest river in north America, proceeding from the lake Ontario, from which it runs a course of 700 miles to the Atlantic ocean. It

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is navigable as far as Quebec, which is above 400 miles; but beyond Montreal it is so full of shoals and rocks, that it will not admit large vessels without danger, unless the channel be very well known.

Lawsonia.
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LAWSONIA, EGYPTIAN PRIVET: A genus of the monogynia order, belonging to the octandria class of plants; and in the natural method ranking with those of which the order is doubtful. The calyx is quadrifid; the petals four; the stamina four in pairs; the capsule is quadrilocular and polyspermous. There are two species, the *inermis* and *spinosa*, both natives of India. Some authors take the first to be the plant termed by the Arabians *benna* or *albenna*; the pulverised leaves of which are much used by the eastern nations for dying their nails yellow: but others, Dr Hasselquist in particular, attribute that effect to the leaves of the other species of Egyptian privet which bears prickly branches. It is probable, that neither set of writers are mistaken, and that the shrub in question is a variety only of the thorny lawsonia, rendered mild by culture.

Alhenna grows naturally and is cultivated throughout India, as also in Egypt, Palestine, and Persia. In those countries, says Hasselquist, it flowers from May to August. The leaves being pulverised, are made with water into a paste, which the inhabitants of those countries bind on the nails of their hands and feet, keeping it on all night. The deep yellow colour that is thus obtained is considerably permanent, not requiring to be renewed for several weeks. It would seem that this custom is very ancient in Egypt; the nails of some mummies being found dyed in this manner. The dried flowers of henna afford a fragrant smell, which, it is affirmed, women with child cannot bear.

LAWYER, signifies a counsellor, or one that is learned or skilled in the law. See COUNSELLOR, BARRISTER, and SERJEANT.

LAY, a kind of ancient poem among the French, consisting of very short verses.

There were two sorts of lays; the *great*, and the *little*. The first was a poem consisting of twelve couplets of verses, of different measures. The other was a poem consisting of sixteen or twenty verses, divided into four couplets.

These lays were the lyric poetry of the old French poets, who were imitated by some among the English. They were principally used on melancholy subjects, and are said to have been formed on the model of the trochaic verses of the Greek and Latin tragedies.

Father Mourgues gives us an extraordinary instance of one of these ancient lays, in his Treatise of French Poetry:

*Sur l'appuis du monde
Que faut il qu'on fonde
D'espoir?
Celle mer profonde,
En debris seconde
Fait voir
Calme au matin, l'onde
Et l'orage y gronde
Le soir.*

Lay-Brothers, among the Romanists, those pious but illiterate persons, who devote themselves in some convent to the service of the religious. They wear a

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different

Layers
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Lazuli.

different habit from that of the religious; but never enter into the choir, nor are present at the chapters; nor do they make any other vow except of constancy and obedience. In the nunneries there are also lay-sisters.

LAY-Man, one who follows a secular employment, and has not entered into holy orders.

LAYERS, in gardening, are tender shoots or twigs of trees, laid or buried in the ground, till, having struck root, they are separated from the parent-tree, and become distinct plants.—The propagating trees by *layers* is done in the following manner: The branches of the trees are to be slit a little way, and laid under the mould for about half a foot; the ground should be first made very light, and after they are laid they should be gently watered. If they will not remain easily in the position they are put in, they must be pegged down with wooden hooks: the best season for doing this is, for ever-greens, toward the end of August, and, for other trees, in the beginning of February. If they are found to have taken root, they are to be cut off from the main plant the succeeding winter, and planted out. If the branch is too high from the ground, a tub of earth is to be raised to a proper height for it. Some pare off the rhind, and others twist the branch before they lay it, but this is not necessary. The end of the layer should be about a foot out of the ground; and the branch may be either tied tight round with a wire, or cut upwards from a joint, or cut round for an inch or two at the place, and it is a good method to pierce several holes through it with an awl above the part tied with the wire.

LAYING THE LAND, in navigation, the state of motion which increases the distance from the coast, so as to make it appear lower and smaller, a circumstance which evidently arises from the intervening convexity of the surface of the sea. It is used in contradiction to *raising* the land, which is produced by the opposite motion of approach towards it. See **LAND**.

LAZAR-HOUSE, or **LAZARETTO**, a public building, in the nature of an hospital, to receive the poor, and those afflicted with contagious distempers. In some places, lazarettos are appointed for the performance of quarantine; in which case, those are obliged to be confined in them who are suspected to have come from places infected with the plague.

LAYSTOFF, or **LOWESTOFF**, a town of Suffolk 117 miles from London, seems to hang over the sea, and its chief business is fishing for cod in the north sea, and for herring, mackarel, and sprats, at home. The church being three furlongs off, there is a chapel in the place. Having been a part of the ancient demesnes of the crown, this town has a charter and a seal, by the former of which the inhabitants are exempted from serving on juries. Here is a market on Wednesday, and two fairs in the year. Some take this to be the most eastern part of Britain.

LAZULI, or *Lapis LAZULI*, a species of zeolite belonging to the class of argillaceous earths. See **CLAY**, n° 7. It is of a blue colour. That which is of a fine blue inclining to purple, has obtained the name of Oriental; but the pale blue is less esteemed. It is frequently variegated with yellow, and white shining veins and speckles; which the common people

take for gold and silver, though they are in truth nothing but marcasites. The lapis lazuli has the following properties: 1. It retains its blue colour for a long time in a calcining heat; but changes at last to a brown. 2. It melts easily in the fire to a white frothy slag; which puffs up greatly when exposed to the flame of a blow-pipe; but with a strong heat in a covered vessel, it becomes clear and solid, with blue clouds in it. 3. It does not ferment with acids; but, if boiled with oil of vitriol, it slowly dissolves, and loses its blue colour. On adding a solution of fixed alkali, it precipitates a white earth, which being scorified with borax, yields a silver coloured regulus, varying in bigness according to the different specimens of the stone. 4. By scorification with lead, it yields silver, sometimes in the quantity of two ounces to a hundred weight of the stone. 5. Oil of vitriol discovers the presence of silver more certainly in lapis lazuli than spirit of nitre. 6. On adding spirit of sal ammoniac to any solution either of crude or calcined lapis lazuli, no blue colour is produced; a certain proof that it does not depend on copper; which is further confirmed by the fixity of the blue colour in the fire, and the colour of the slag or glass. 7. It is somewhat harder than the other kinds of zeolite, but does not approach to the hardness of quartz or other siliceous stones in general; for the purest and finest lapis lazuli may be rubbed into a white powder by means of steel, though it takes a polish like marble. 8. When perfectly calcined, it is a little attracted by the loadstone; and when scorified with lead, the slag becomes of a greenish colour, not like that produced by copper, but such as is always produced by iron mixed with a calcareous substance.

Mongez informs us, that some of the parts of lapis lazuli will strike fire with steel. According to Cronstedt, it is seldom found pure; but generally full of veins of quartz, limestone, and marcasite: but for the experiments by which the above mentioned qualities were determined, the purest pieces were picked; such as had been examined through a magnifying glass, and judged as free from heterogeneous mixture as possible. Our author expresses a wish that such as are in possession of any quantity of the stone would make farther experiments, in order to determine what substance it is which produces the blue colour so constant in the fire, since it cannot depend either on copper or iron; for though these metals, on certain occasions, give a blue colour, yet they never produce any other but what instantly vanishes in the fire, and is destroyed by means of an alkali. "What is mentioned in several books (says he) can by no means be objected here; since in these processes the silver employed is mixed with copper and other substances which contain a volatile alkali, whereby the blue colour is produced."

In the year 1761 M. Margraaf published some experiments on the lapis lazuli; in which he agrees in a great measure with Cronstedt. According to him, the lapis lazuli does not contain any copper; but he found in it a calcareous and gypseous substance, though he took care to pick out the very purest bits he could find. Engestrom, however, is of opinion, that the calcareous substance is not essential to lapis lazuli; as Cronstedt says, that the lapis lazuli he tried did not ferment with acids. He farther mentions, that when dissolved in any of the mineral acids, it always turned

Lazuli.

Leachlade,
Lead.

Lead.

them into a jelly. Some of his experiments also seem to indicate, that all kinds of lapis lazuli do not contain silver, though many of them do.

The lapis lazuli is found in many parts of the world; but that of Asia and Africa is much superior both in beauty and real value to the Bohemian and German kind, which is too often sold in its place.

LEACHLADE, a town of Gloucestershire, 12 miles east from Cirencester, 29 miles from Gloucester, and 60 from London. The river Thames waters it on the south and east sides, and divides it from Wiltshire and Berkshire. The Leach runs through the north side of the parish. The Thames river is navigable for barges of 50 tons burden, but want of water one part of the year makes the navigation very uncertain. Here is a small market on Tuesday, and two fairs in the year. The church is a large handsome building, with double aisles, supported by two rows of fluted pillars.

LEAD, one of the imperfect metals, of a dull white colour inclining to blue, the least ductile, the least elastic, and the least sonorous, of the whole, possesses a considerable degree of specific gravity, reaching from 11.3 to 11.479. It is found,

1. *Native*. Cronstedt and some other mineralogists have doubted whether native lead was ever found in the earth, but the matter is now decided by innumerable testimonies. It appears from the Philosophical Transactions for 1772, that some small pieces of native lead were found in the county of Monmouth in Wales. It is said also to be found in the Vivarrais in France. Bomare mentions a curious specimen of native lead kept in the collection of the abbé Nolin at Paris, that had been found in the lead mines of *Pompean*, near Rennes in Brittany. It was very malleable, could be cut with a knife without crumbling, and easily melted over the flame of a candle. It weighed about two pounds; was imbedded in an earthy lead ore of a reddish colour; and had a stony vein that went through the middle of it.

2. *Lead spar*, is sometimes transparent, but generally opaque, and crystallized in regular forms of a laminar or striated texture. Lead ochre, or native ceruss, is the same substance, but in a loose form, or indurated and shapeless. Sometimes it is found in a silky form. Both contain some iron, calcareous earth, and clay; and both grow red or yellowish when heated. They effervesce with acids, and afford from 60 to 80 or 90 per cent. of lead. They are found in Brittany, Lorraine, Germany, and England.

M. Sage, of the royal academy of Paris, pretended, that the white lead ore from Poulawen in the county of Bretagne in France, was mineralized by the marine acid; but his mistake was detected by the commissioners of that academy. This ore, according to the same academicians, is composed of striated crystals, of a whitish pale red or grey colour. There is a lead ore of this kind sometimes grey and sometimes yellow, which is very heavy. Its structure is either lamellated or fibrous, and its laminae can hardly be separated; but it is friable, and may be cut with a knife. Sometimes it is crystallized; and sometimes its fibres are extremely thin, semitransparent, and have a silky look. They effervesce with acids, decrepitate in the fire, and seem to lose the aerial acid by which the lead is mineralised.

The sparry lead ore has often a semitransparency like the sparry fluor; its crystals being generally terminated by hexahedral prisms, or cylindrical columns, striated, and apparently composed of a great number of filaments. These sparry crystals are always found in the same places with the galenas or sulphurated lead ores; and seem to be formed from their decomposition after the loss of their sulphur; so that it is not uncommon to find galenas which are beginning to pass into a state of white lead. There is a black ore of lead, which may be supposed to be in an intermediate state betwixt the white lead ore and galena, as it seems to be a true white lead tinged by the hepatic vapours of the sulphur on its parting from the galena. There is also a green transparent lead, having a more or less yellowish cast. It frequently has no regular form, and appears like a kind of moss. When this green ore is crystallized, it consists of hexahedral truncated prisms, terminated by six-sided pyramids, either entire or truncated near the base. Professor Brunnich tells us, that the green and the black lead ores from Saxony, and the Hungarian blue ores, are prismatic. According to Kirwan and Mongez, the green lead ores are either crystallized in needles as in Brittany, or in a loose powder as in Saxony; but mostly adhering to and investing quartz. They owe their green colour to iron, seldom containing any copper, and are very rare. Brunnich mentions a sapphire-coloured ore once found among some white lead spar at Wendish Lemen. It was easily melted by the blow-pipe. Natural red-lead or minium has been found in some Siberian mines. It is found either crystallized, or in shapeless masses, or in powder, in which it agrees with the brown or yellow ores. Dr J. R. Forster brought some of this crystallized red lead ore from Russia. The crystals were cubical, and the colour seemed rather pale. The red Siberian ores are perfectly rhombic; those from Bohemia have a cubical or rhomboidal form. Sulphur and arsenic have been found in the red ones, but the others have not been sufficiently investigated. Most of them effervesce with acids.

3. *Arsenical lead spar*. Cronstedt says that he tried an ore of this kind from an unknown place in Germany, and found that no metal could be melted from it by means of the blow-pipe as could be done by other spars; but by doing it in a crucible, that part of the arsenic which did not fly off was likewise reduced, and found in the form of grains dispersed, and forced into the lead. Another ore similar to this, and which likewise was not easily reduced by means of the blow-pipe, always shot into polygonal, but chiefly hexagonal crystals, after being melted, having shining surfaces. Professor Brunnich observes, that these ores effervesce with acids, and contain 40 per cent. of lead.

4. The *bley-glanz* of the Germans contains lead mineralized with sulphur alone, and of this there are two or three varieties. At Villach in Austria there is said to be found a potters lead-ore containing not the smallest portion of silver.

5. *Lead mineralised by the vitriolic acid*, is generally in the form of a white mass, soluble in 18 times its quantity of water. Sometimes it is blackish, and crystallized in very long striæ, or in friable stalactites; this last variety effloresces in the air, and is converted

Lead. into a true vitriol of lead. According to Mr Kirwan, it does not effervesce nor is soluble in other acids, but may be reduced by laying it on a burning coal. It originates from the decomposition of sulphurated lead ores. Dr Withering informs us, that it is found in great quantity in the island of Anglesey; but united to iron, and not reducible by the blow-pipe or charcoal.

6. *Lead mineralized by the phosphoric acid*, was lately discovered by Mr Gahn. It is of a greenish, yellow, or reddish colour, and does effervesce with acids. After solution in nitrous acid, the lead may be precipitated from this ore by the vitriolic acid. An hundred grains of lead are produced from 137 of this precipitate washed and dried. The decanted liquor evaporated to dryness affords the phosphoric acid, from which the inflammable compound may be produced by distillation with charcoal. Seven ounces of this lead ore from the neighbourhood of Friburg, treated in the manner just mentioned, yielded by distillation 144 grains of phosphorus. A compound similar to this ore may be obtained by mixing pure phosphoric acid (that is, such as is combined with the volatile alkali, for the fossil alkali in the microcosmic salt hinders the operation) with red lead.

7. *Galena, or potters ore*, in which the metal is mineralized by sulphurated silver. According to Mr Kirwan it is the most common of all the lead ores, of a bluish dark lead colour, formed of cubes of a moderate size, or in grains of a cubic figure, whose corners have been cut off; its texture is lamellar, and its hardness varying in different specimens. That which is formed into grains is supposed to be the richest in silver; but even this contains only about one or one and a half *per cent.* that is, about 12 or 18 ounces *per quintal*; and the poorest not above 60 grains. Ores that yield about half an ounce of silver *per quintal* are barely worth the extracting. Different specimens also vary in the quantity of sulphur they contain, from 15 to 25 *per cent.* and that which contains the least is in some degree malleable. The proportion of iron in this ore is very small, but the lead is from 60 to 85 *per cent.* M. Monnet asserts, that galena is insoluble in the nitrous acid; but Dr Watson has shown, that it is completely dissolved by the acid when diluted. The specific gravity of galena is from 7.000 to 7.780. It yields a yellow slag when melted.

M. Fourcroy distinguishes several varieties of this ore. 1. Cubic galena, the cubes of which are of various sizes, and found either single or in groups; it is often found with the angles truncated, and is common at Freyberg. 2. In masses, without any regular configuration; very common at St Maire. 3. With large facets. It does not compose regular crystals, but is entirely formed of large laminæ. 4. With small facets, appearing like mica, composed of white and very brilliant scales. It is called white silver ore, because it contains a considerable quantity of that metal. 5. Small grained galena, so called because it has a very close grain. It is likewise very rich in silver, and is found with the foregoing ore. No galena, excepting that of Carinthia, is known to be without silver; but it has been observed, that those which afford the most silver have the smallest facets. 6. Galena crystallized like lead spar, in hexagonal prisms or cylindrical columns,

contains little silver, and seems to be merely spathose lead, mineralized without having lost its form. Crystals of pure spathose lead entirely covered with a very fine galena, are sometimes found in the same piece, together with others which are changed into galena throughout.

8. *Antimonial lead-ore*, in which the metal is mineralized by sulphur with silver and regulus of antimony. This is of the same colour with galena, but its texture is different, being radiated, filamentous, or striated. When heated, it yields a white smoke; and it affords from 40 to 50 *per cent.* of lead, and from half an ounce to two ounces of silver *per quintal*.

9. *Pyritous lead-ore*, mineralized by sulphur with silver and a large proportion of iron. This is of a brown or yellowish colour; of an oblong or stalactitical form; friable; and of a lamellar, striated, or loose texture; affording 18 or 20 *per cent.* of lead at most, which is obtained merely by melting it, the iron detaining the sulphur. It is only a mixture of galena with the brown pyrites.

10. *Lead mineralized by arsenic*, was lately discovered in Siberia. It is of a pale colour externally, but internally of a deep red. It is for the most part crystallized in rhomboidal parallelepipeds, or irregular pyramids. Lehman says, that it contains sulphur, arsenic, and about 34 *per cent.* of lead; and Mr Pallas says, that it contains some silver also. It was found near Catherineburg in Siberia; and Lehman says, that on being reduced to powder, it resembled the best carmine. A specimen examined by Mongez was of a yellow-greenish colour, and was found among quartz in the same country, and contained some arsenic. Both these, according to M. Magellan, may be easily reduced by means of a blow-pipe.

11. *Stony or sandy lead-ores*, consist either of the calciform or the galena kind, intimately mixed and diffused through stones and earth, chiefly of the calcareous or barytic genus. To this species Mongez refers the earthy lead ore, falsely called *native massicot*, found in the lead mines of Pompean in Brittany, principally in solid pieces. These are either yellowish or grey: they appear bright like glass when broken, and effervesce with acids; whence it appears that the ore contains fixed air. Sometimes it is mixed with clay.

12. The mine of Morgenstern at Freyberg has a peculiar variety of lead-ore containing silver, and which deserves to be noticed on account of its yellowish-brown colour, and likewise on account of its singular figure, which consists of slender cylinders. Sometimes it is found in dendritical forms, like the *knit cobalt*.

Most of the ores of lead contain silver; and those kinds of galena which do not, are very scarce. In Hungary and Transylvania, the lead ore contains a quantity of gold as well as silver. Sometimes the potters ores are found so poor in silver, that it is not worth the expence of extracting it. These, when free from mixtures of the rock, are employed without any fusion to glaze earthen ware; and a considerable trade is carried on in the Mediterranean with such ores from the mines of Sardinia and France.

Lead, exposed to heat, melts long before it is ignited. By a strong heat it becomes volatile, and flies off in vapours. If suffered to cool very slowly, and the melted portion be poured off from that which is be-

some

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come solid, it is found to be crystallized in quadrangular pyramids. When melted with the contact of air, it soon becomes covered with a grey dull pellicle, which by proper management is converted into minium, as explained under the article CHEMISTRY; and by this operation it becomes heavier by about ten pounds in the hundred, though it is said that at Nuremberg it gains twice as much. By too much heat minium loses its beautiful red colour, and assumes that of a pale yellow: by a heat still more violent, it melts into a transparent glass, so fusible, that it penetrates the crucible and escapes. But if one part of sand be added to three parts of calx of lead, the sand melts, by the assistance of the calx, into a beautiful amber-coloured glass. With two parts of lead and one of sand, it resembles a topaz. A similar quantity of the calx of lead, added to common glass, does not alter its transparency, but gives it a greater degree of weight, and more especially a kind of unctuousness, which renders it capable of being cut and polished more easily without breaking. This glass is very proper for making achromatic lenses; but is subject to veins, and to have a gelatinous appearance. "The English (says M. Fourcroy) call it *flint glass*; our workmen find great difficulty in selecting pieces of any considerable magnitude, exempt from striae, in that which is imported from England." This great imperfection seems, in Macquer's opinion, to depend on the principles of the glass not being uniformly combined: for that purpose it is necessary that it should be kept in fusion for a long time; but as the lead would by that means be dissipated, the flint-glass would lose a part of its density and unctuousness, which are its chief merit.

M. Magellan tells us, that it is the purest calx of lead called *minium*, made immediately from the metal, and the most pure quartzous sand, with pure mineral alkali, or rather with good nitre, that produce, when properly melted, the best flint-glass. The greater the proportion of red-lead, the heavier is the glass, and of course its refraction the greater; an essential requisite for such glass as is employed for the lenses of achromatic telescopes. It must, however, be observed, that glass made with lead has the defect of being of unequal density, for want of a perfect mixture of all its parts; so that it is extremely difficult to find pieces of a few inches diameter among hundred weights of this glass, that shall be quite free from filaments and striae. By chance the late Mr Dollond procured a pot of pure flint-glass, from which he made the admirable triple object lenses of three feet and a half focus, which have been so much admired; but no such other glass has yet been found, though very considerable premiums have been offered for the method of producing the best kind of glass for optical instruments.

All the calces of lead, especially minium, have a great attraction for fixed air. If therefore we should desire a calx of lead in perfect purity, it must be kept defended from the contact of air, or slightly calcined before it is used, in order to separate the fixed air it may have absorbed. When exposed to the air, it tarnishes in proportion to the dampness of the air, and contracts a white rust, which is not a pure calx, but combined with the fixed air imbibed from the atmosphere. It is not altered by pure water; and there-

fore we must conclude, that the whitish crust with which the internal part of lead pipes through which water runs is usually covered, must be owing to the saline substances contained in the water.

"All the phenomena of the calcination of lead (says M. Magellan), and of its reduction to the metallic state, show that it has the smallest adhesion to phlogiston; as appears by the simple action of fire, which separates both, whilst their attraction is equally quick in its reduction to the metallic state. A common water, which owes its colour to red-lead, by being burned in the flame of a candle, immediately exhibits pure globules or little drops of the metal. The readiness with which lead parts with its phlogiston is shown by the curious experiment lately performed at Paris by Doctor Luzuriagu pensioner of the court of Spain. He put four ounces of lead-shot wetted with water into a pint bottle filled with atmospheric air, and closed with a stopple. Having shaken it several times, a black powder was produced, which soon turned white: on opening the bottle at the end of 24 hours, the air was found to have lost a fifth part of its bulk, and to have become phlogisticated. Dephlogisticated air was still more reduced in bulk; but the contrary took place when inflammable air was employed."

Caustic alkaline lixivium, boiled on lead, dissolve a small quantity of it, and corrode more. It has been observed, that plants do not thrive so well in leaden as in earthen vessels.

In Holland, and perhaps in other places, it has been customary to correct the most offensive expressed oils, as that of rape-seed and rancid oils of almonds or olives, by impregnating them with lead. This dangerous abuse may be discovered by mixing a little of that oil with a solution of orpiment made in lime-water: for, on shaking them together, and suffering them to rest, the oil, if it has any saturnine tint, will appear of an orange red; but if pure, of a pale yellowish one. A similar abuse has also been practised with acid wines, which dissolve as much of the lead as communicate a sweetish taste. This is discovered in a similar manner; and upon this principle is founded the *liquor probatorius*, or test-liquor. This liquor is nothing else than a solution of orpiment or liver of sulphur in lime-water. If a few drops of this solution be put in a glass of the suspected liquor, it will exhibit a precipitation like a dark-coloured cloud. This is owing to the attachment of the lead to the sulphur in the orpiment. If lead, or its calces, in powder, be mixed with a solution of *hepar sulphuris*, a decomposition ensues, but the alkali is not thus deprived of its sulphur. Instead of this, it is re-converted into vitriolated tartar; the lead seizes the phlogiston of the sulphur, and allows the vitriolic acid to unite with the alkali.

Lead unites with most other metals. It cannot, however, be united with iron: but if both are exposed to the fire in a proper vessel, the lead scorifies the iron by seizing on its phlogiston; after which it melts with the calx into a dark-coloured glass. This property which lead possesses, of reducing all the imperfect metals to a glass, is the reason of its being used in the purification of gold and silver; neither of which can be touched by it, but remain pure in the bottom of the cupel. This process is the more complete by reason

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reason of the great efficacy of lead in dissolving earthy bodies. In this respect it is so powerful a flux, that no earthen vessel or crucible can contain it when fused, of whatever materials the vessel be made. A mixture of raw and burned clay stands the action of lead for the greatest length of time; but at last this also gives way, and is corroded in the sides.

Litharge, a sort of refuse of lead, is employed in the composition of all the finer glasses called *pastes*, which are designed as imitations of precious stones. The addition of litharge renders them more solid and brilliant. The principal ingredients are the purest of flint, purified alkali, borax, and litharge; the other additions, chiefly of metallic calces, are added, merely for the sake of tinging them with various colours.

Lead is employed in making of various vessels, as cisterns for water, large boilers for chemical and other purposes, &c. It is frequently mixed with tin by the pewterers; a practice which M. Fourcroy sets forth as very dangerous, and gives the following process for detecting it: "Dissolve two ounces of the suspected metal in five ounces of a good pure nitrous acid. The calx of tin is to be washed with four pounds of distilled water, and dried, and the water evaporated by the heat of a water-bath. By this evaporation nitre of lead is procured; which being calcined, the weight of the residue shows the quantity of metal contained in the tin, allowing a few grains for the augmentation of weight arising from calcination, as well as the other metallic substances, such as zinc and copper, which the tin under examination may contain. Bayan and Charlard by this method ascertained, that fine wrought tin or pewter contains about 10 pounds of lead in the 100; and that the common tin sold in France under that name, often contains 25 pounds in the same quantity; an enormous dose, sufficient to expose those who use vessels made of this composition to the greatest danger."

There are several methods used by pewterers to discover the fineness of tin. This is done in some cases by simple inspection, the judgment being assisted by the weight and noise produced in bending the metal. But the best method is by trying the specific gravity of the metal; which will discover a very small quantity of lead, the difference betwixt the two metals being so considerable.

Lead, when taken into the human body, is productive of various disorders, particularly a dangerous kind of colic terminating in a palsy; and as all the common earthen ware is glazed with minium, the use of it cannot be supposed to be void of danger in all cases. Fountains, or vessels of lead which contain water, often communicate a noxious quality to it when suffered to remain long full. Its vapour is dangerous to the workmen who melt it, and the fumes falling upon the grass render it poisonous to the cattle who eat it; the fish who inhabit the waters near smelting-houses soon die, nor is it safe for any animal to drink of it. In cases of poisoning by lead, antimonial emetics are recommended. Navier prescribes liver of sulphur and hepatic waters. The internal use of lead is certainly dangerous, though it is often prescribed in medicine; and even the external use of it is not altogether safe. Certain it is, that all workmen who deal much in lead, are subject to the cholic a-

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bove mentioned from the habitual contact of the metal or its calces, even though they neither take it internally, nor are exposed to its fumes.

Black-LEAD (Plumbago), a genus of inflammable substances, frequently confounded with *molybdæna*; the appearance of which is nearly the same, though the qualities are very different. Black-lead, when pure, is extremely black; but when fresh cut, appears of a bluish white, and shining like lead. It is micaceous, and minutely scaly; easily broken, and of a granular and dull appearance when broken. Its tract on paper is much darker than that of *molybdæna*, which has a fine silvery appearance; by which means they are easily distinguished from one another. Black-lead is too soft to strike fire with steel: it is insoluble in acids; but in a very strong fire, when exposed to the air at the same time, it is entirely volatile, leaving only a little iron and a small quantity of siliceous earth. It may be decomposed by deflagration with nitre; but the common fluxes are not capable of procuring its fusion. Its specific gravity is from 1.987 to 2.267. According to Scheele, this substance consists of phlogiston combined with aerial acid: but M. Pelletier has shown, that when pure it neither produces fixed nor inflammable air; both which, when found, are entirely owing to the substances that are mixed with it. Mr Scheele says, that one part of plumbago requires ten of nitre to decompose it, but charcoal only five. The conclusion drawn from hence, viz. that plumbago contains twice as much phlogiston as charcoal, however, is by no means just; for the phlogiston may be defended from the action of the nitre, by means we cannot possibly know, in the one and not in the other. Dr Priestley's experiments on the dissipation of charcoal into inflammable air also show, that charcoal is little or nothing else than mere phlogiston, so that no substance whatever can contain *more*. From these experiments Mr Kirwan concludes, that 100 parts of plumbago contain 67 of phlogiston; because 100 grains of nitre contain 33 of real nitrous acid; all of which are decomposed when it receives as much phlogiston as is necessary to convert it into nitrous acid, or a little more. But 33 grains of nitrous acid are converted into nitrous air by 67 grains of phlogiston; the remaining 33 parts may be water, or other volatile substance. By the experiments of Messrs Gahn and Hielm, it appears, that 100 grains of plumbago, calcined in a muffle, lost 90 grains in weight; the remainder being a ferruginous earth, and the sulphureous smell showed that it contained some pyrites, both which were accidental to the black lead. M. Pelletier, however, as has already been hinted, affirms, that plumbago is volatilized in a strong fire, without producing any aerial vapour whatever; whence we must conclude, that the plumbago used by Scheele had not been quite pure. In close vessels, however, all agree, that black-lead sustains a vehement fire for a long time without any sensible diminution of weight. This is similar to charcoal; which for a long time was supposed to be indestructible in close vessels: but Dr Priestley has shown, that in a very violent fire, in close vessels, charcoal begins to emit inflammable air, and continues to do so without any end of the process that he could perceive; whence it is probable, that in this way also charcoal might be entirely dispersed, provided we could find vessels capable of

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of sustaining such a long and vehement heat. No experiments have been made with black-lead in this way, either with the solar heat *in vacuo*, or with a violent heat in an iron or other vessel capable of resisting a long continued heat.

Cronstedt, when treating of this mineral, observes, that "Mr Pott examined it in close vessels, and Mr Quist in an open fire; from which difference in the mode of treatment, different notions had arisen: because the black-lead, when treated in close vessels, or when immediately put into a strong charcoal fire, is almost unalterable; but in a calcining heat, becomes almost entirely volatile. This is the case with several of the other mineral phlogistons; and from this we may in general learn, how necessary it is to examine the mineral bodies by many and different methods, and to endeavour to multiply the experiments more than has hitherto been done."

With regard to the reduction of metallic calces, which ought to be accomplished by this *phlogistic* substance, M. Pelletier affirms, that it cannot be done unless the black-lead be mixed with fixed alkali, in the same manner as when charcoal is employed in such circumstances. It cannot be combined with iron, as Bergman asserts; nor with any other metal, though it may be simply interspersed betwixt its particles. M. Pelletier indeed owns, that there is a kind of plumbago found swimming over the melted iron in large furnaces where iron-ores are smelted; but he thinks, that this must have been naturally mixed with the mineral. It is also the only known plumbago of a very distinct lamellar form; as he observed in the pieces obtained from the iron works at Vallancy in the French province of Berry.

Black-lead is found of different kinds; viz. 1. Of a steel-grained and dull texture; naturally black, but when rubbed affording a dark-lead colour. 2. Of a granulated and scaly appearance at the same time. It is found in different countries, as Germany, France, Spain, the Cape of Good Hope, and America; but generally in small quantities, and of very different qualities. The best sort, however, and the fittest of all for making pencils, is that met with in the county of Cumberland in England. It is found in such plenty at a place called *Borrowdale* in this county, that hence not only the whole island of Britain, but the whole continent of Europe, may be said to be supplied. "I have seen (says M. Magellan) various specimens from different countries; but their coarse texture and bad quality cannot bear any comparison with that of *Borrowdale*; though it sometimes, but seldom, contains pyritaceous particles of iron. It is but a few years ago, that this mine seemed to be almost exhausted; but by digging some few yards through the strata underneath, according to the advice of an experienced miner, whose opinion had been long unattended to, a very thick and rich vein of the best black-lead has been discovered, to the great joy of the proprietors and advantage of the public."

The principal use of black lead is for making pencils for drawing; which have the advantage of marking paper very distinctly for a time, though their traces may afterwards be entirely rubbed out by soft bread or elastic gum. To form the pencils, the lead is cut into thin parallelopipeds, and put into quadrangular

grooves cut in pieces of cypress wood; and a slit being glued over, they are worked into small cylinders like quills. A coarser kind are made by working up the powder of black-lead with sulphur, or some mucilaginous substance; but these answer only for carpenters, or some very coarse drawings. One part of plumbago with three of clay, and some cows hair, makes an excellent coating for retorts, as it keeps its form even after the retorts have melted. The famous crucibles of Ypsen are formed of plumbago mixed with clay. These are known in Britain by the name of Hessian crucibles; but a manufacture of the same kind is now established at Chelsea in the neighbourhood of London, where crucibles are manufactured nearly of the same quality with the foreign ones. The powder of black-lead serves also to cover the straps for razors; and it is with it that the cast-iron work, such as stoves, &c. receive a gloss on their surface. An application, however, perhaps as useful as any other, is that of black-lead to smooth the surfaces of wooden work which are subjected to much friction, as wooden screws, packers presses, &c.; neither greasy nor oily substances, nor soapy ointments, produce such a good effect upon them.

Milled LEAD. See CHEMISTRY, n° 1219.

Poison of LEAD. See POISON.

Sheet-LEAD. See PLUMBERY.

LEAF, a part of a plant extended into length and breadth in such a manner as to have one side distinguishable from the other. This is Miller's definition. Linnæus denominates leaves "the organs of motion, or muscles of the plant."—The leaves are not merely ornamental to plants; they serve very useful purposes, and make part of the organs of vegetation.

The greater number of plants, particularly trees, are furnished with leaves: in mushrooms, and shrubby horse-tail, they are totally wanting. Ludwig defines leaves to be fibrous and cellular processes of the plant, which are of various figures, but generally extended into a plain membranaceous or skinny substance. They are of a deeper green than the foot-stalks on which they stand, and are formed by the expansion of the vessels of the stalk, among which, in several leaves, the proper vessels are distinguished by the particular taste, colour, and smell, of the liquors contained within them.

By the expansion of the vessels of the stalk, are produced several ramifications or branches, which, crossing each other mutually, form a kind of net; the meshes or interstices of which are filled up with a tender cellular substance, called the *pulp*, *pith*, or *parenchyma*. This pulpy substance is frequently consumed by certain small insects, whilst the membranous net remaining untouched exhibits the genuine skeleton of the leaf.

The net in question is covered externally with an epidermis or scarf-skin, which appears to be a continuation of the scarf-skin of the stalk, and perhaps of that of the stem. M. Defaussure, a judicious naturalist, has attempted to prove, that this scarf-skin, like that of the petals, is a true bark, composed itself of an epidermis and cortical net; these parts seem to be the organs of perspiration, which serve to dissipate the superfluous juices.

The cortical net is furnished, principally on the surface

Gold-Leaf. surface of the leaf, with a great number of suckers or absorbent vessels, destined to imbibe the humidity of the air. The upper surface, turned towards heaven, serves as a defence to the lower, which looks downward; and this disposition is so essential to the vegetable economy, that, if a branch is overturned in such a manner as to destroy the natural direction of the leaves, they will, of themselves, in a very short time, resume their former position; and that as often as the branch is thus overturned.

Leaves, then, are useful and necessary organs; trees perish when totally divested of them. In general, plants stripped of any of their leaves, cannot shoot vigorously: witness those which have undergone the depredations of insects; witness, likewise, the very common practice of stripping off some of the leaves from plants, when we would suspend their growth, or diminish the number of their shoots. This method is sometimes observed with corn and the esculent grasses; and, in cold years, is practised on fruit-trees and vines, to render the fruit riper and better coloured: but in this case it is proper to wait till the fruits have acquired their full bulk, as the leaves contribute greatly to their growth, but hinder, when too numerous, that exquisite rectifying of the juices, which is so necessary to render them delicious and palatable.

When vegetation ceases, the organs of perspiration and inspiration become superfluous. Plants, therefore, are not always adorned with leaves: they produce new ones every year; and every year the greater part are totally divested of them, and remain naked during the winter. See PLANT.

LEAF-Insect. See CIMEK.

LEAF, in clocks and watches, an appellation given to the notches of their pinions.

Gold-LEAF, usually signifies fine gold beaten into plates of an exceeding thinness, which are well known in the arts of gilding, &c. The preparation of gold-leaf, according to Dr Lewis, is as follows.

"The gold is melted in a black-lead crucible, with some borax, in a wind-furnace, called by the workmen a *wind-hole*: as soon as it appears in perfect fusion, it is poured out into an iron ingot mould, six or eight inches long, and three quarters of an inch wide, previously greased, and heated, so as to make the tallow run and smoke, but not to take flame. The bar of gold is made red-hot, to burn off the unctuous matter, and forged on an anvil into a long plate, which is further extended, by being passed repeatedly between polished steel rollers, till it becomes a ribbon as thin as paper. Formerly the whole of this extension was procured by means of the hammer, and some of the French workmen are still said to follow the same practice: but the use of the flattening-mill both abridges the operation, and renders the plate of more uniform thickness. The ribbon is divided by compasses, and cut with sheers into equal pieces, which consequently are of equal weights: these are forged on an anvil till they are an inch square; and afterwards well nealed, to correct the rigidity which the metal has contracted in the hammering and flattening. Two ounces of gold, or 960 grains, the quantity which the workmen usually melt at a time, make 150 of these squares, whence each of them weighs six grains and two-fifths; and as 902 grains of gold make a cubic inch, the

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thickness of the square plates is about the 766th part of an inch. **Gold-Leaf.**

"In order to the further extension of these pieces into fine leaves, it is necessary to interpose some smooth body between them and the hammer, for softening its blow, and defending them from the rudeness of its immediate action: as also to place between every two of the pieces some proper intermedium, which, while it prevents their uniting together, or injuring one another, may suffer them freely to extend. Both these ends are answered by certain animal membranes.

"The gold-beaters use three kinds of membranes; for the outside cover, common parchment made of sheep-skin; for interlaying with the gold, first the smoothest and closest vellum, made of calf-skin; and afterwards the much finer skins of ox-gut, stripped off from the large straight gut slit open, curiously prepared on purpose for this use, and hence called *gold-beater's skin*. The preparation of these last is a distinct business, practised by only two or three persons in the kingdom, some of the particulars of which I have not satisfactorily learned. The general process is said to consist, in applying one upon another, by the smooth sides, in a moist state, in which they readily cohere and unite inseparably; stretching them on a frame, and carefully scraping off the fat and rough matter, so as to leave only the fine exterior membrane of the gut; beating them between double leaves of paper, to force out what unctuousity may remain in them; moistening them once or twice with an infusion of warm spices; and lastly, drying and pressing them. It is said, that some calcined gypsum, or plaster of Paris, is rubbed with a hare's foot both on the vellum and the ox-gut skins, which fills up such minute holes as may happen in them, and prevents the gold-leaf from sticking, as it would do to the simple animal-membrane. It is observable, that, notwithstanding the vast extent to which the gold is beaten between these skins, and the great tenuity of the skins themselves, yet they sustain continual repetitions of the process for several months, without extending or growing thinner. Our workmen find, that, after 70 or 80 repetitions, the skins, though they contract no flaw, will no longer permit the gold to extend between them; but that they may be again rendered fit for use by impregnating them with the virtue which they have lost, and that even holes in them may be repaired by the dexterous application of fresh pieces of skin: a microscopical examination of some skins that had been long used plainly showed these repairs. The method of restoring their virtue is said in the *Encyclopédie* to be, by interlaying them with leaves of paper moistened with vinegar white-wine, beating them for a whole day, and afterwards rubbing them over as at first with plaster of Paris. The gold is said to extend between them more easily, after they have been used a little, than when they are new.

"The beating of the gold is performed on a smooth block of black marble, weighing from 200 to 600 pounds, the heavier the better; about nine inches square on the upper surface, and sometimes less, fitted into the middle of a wooden frame, about two feet square, so as that the surface of the marble and the frame form one continuous plane. Three of the sides are furnished with a high ledge; and the front, which

Gold-Leaf. is open, has a leather flap fastened to it, which the gold-beater takes before him as an apron, for preferring the fragments of gold that fall off. Three hammers are employed, all of them with two round and somewhat convex faces, though commonly the workman uses only one of the faces: the first, called the *cutch-hammer*, is about four inches in diameter, and weighs 15 or 16 pounds, and sometimes 20, though few workmen can manage those of this last size: the second, called the *shodering-hammer*, weighs about 12 pounds, and is about the same diameter: the third, called the *gold-hammer*, or *finishing-hammer*, weighs 10 or 11 pounds, and is nearly of the same width. The French use four hammers, differing both in size and shape from those of our workmen: they have only one face, being in figure truncated cones. The first has very little convexity, is near five inches in diameter, and weighs 14 or 15 pounds: the second is more convex than the first, about an inch narrower, and scarcely half its weight: the third, still more convex, is only about two inches wide, and four or five pounds in weight: the fourth or finishing hammer is near as heavy as the first, but narrower by an inch, and the most convex of all. As these hammers differ so remarkably from ours, I thought proper to insert them, leaving the workmen to judge what advantage one set may have above the other.

"A hundred and fifty of the pieces of gold are interlaid with leaves of vellum, three or four inches square, one vellum leaf being placed between every two of the pieces, and about 20 more of the vellum leaves on the outsides; over these is drawn a parchment case, open at both ends, and over this another in a contrary direction, so that the assemblage of gold and vellum leaves is kept tight and close on all sides. The whole is beaten with the heaviest hammer, and every now and then turned upside down, till the gold is stretched to the extent of the vellum; the case being from time to time opened for discovering how the extension goes on, and the packet, at times, bent and rolled as it were between the hands, for procuring sufficient freedom to the gold, or, as the workmen say, to make the gold work. The pieces, taken out from between the vellum leaves, are cut in four with a steel knife; and the 600 divisions, hence resulting, are interlaid, in the same manner, with pieces of the ox-gut skins five inches square. The beating being repeated with a lighter hammer till the golden plates have again acquired the extent of the skins, they are a second time divided in four: the instrument used for this division is a piece of cane cut to an edge, the leaves being now so light, that the moisture of the air or breath condensing on a metalline knife would occasion them to stick to it. These last divisions being so numerous, that the skins necessary for interposing between them would make the packet too thick to be beaten at once, they are parted into three parcels, which are beaten separately, with the smallest hammer, till they are stretched for the third time to the size of the skins: they are now found to be reduced to the greatest thinness they will admit of; and indeed many of them, before this period, break or fail. The French workmen, according to the minute detail of this process given in the *Encyclopédie*, repeat the division and the beating once more; but as the squares of gold,

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taken for the first operation, have four times the area of those used among us, the number of leaves from an equal area is the same in both methods, viz. 16 from a square inch. In the beating, however simple the process appears to be, a good deal of address is requisite, for applying the hammers so as to extend the metal uniformly from the middle to the sides: one improper blow is apt not only to break the gold leaves, but to cut the skins.

"After the last beating, the leaves are taken up by the end of a cane instrument, and, being blown flat on a leather-cushion, are cut to a size, one by one, with a square frame of cane made of a proper sharpness, or with a frame of wood edged with cane: they are then fitted into books of 25 leaves each, the paper of which is well smoothed, and rubbed with red-bole to prevent their sticking to it. The French, for sizing the leaves, use only the cane-knife; cutting them first straight on one side, fitting them into the book by the straight side, and then paring off the superfluous parts of the gold about the edges of the book. The size of the French gold leaves is from somewhat less than three inches to three and three quarters square; that of ours, from three inches to three and three-eighths.

"The process of gold-beating is considerably influenced by the weather. In wet weather, the skins grow somewhat damp, and in this state make the extension of the gold more tedious: the French are said to dry and press them at every time of using; with care not to overdry them, which would render them unfit for farther service. Our workmen complain more of frost, which appears to affect the metalline leaves themselves: in frost, a gold-leaf cannot easily be blown flat, but breaks, wrinkles, or runs together.

"Gold-leaf ought to be prepared from the finest gold; as the admixture of other metals, though in too small a proportion to sensibly affect the colour of the leaf, would dispose it to lose of its beauty in the air. And indeed there is little temptation to the workman to use any other; the greater hardness of alloyed gold occasioning as much to be lost in point of time and labour, and in the greater number of leaves that break, as can be gained by any quantity of alloy that would not be at once discoverable by the eye. All metals render gold harder and more difficult of extension: even silver, which in this respect seems to alter its quality less than any other metal, produces with gold a mixture sensibly harder than either of them separately, and this hardness is in no art more felt than in the gold-beater's. The French are said to prepare what is called the *green gold-leaf*, from a composition of one part of copper and two of silver with eighty of gold. But this is probably a mistake: for such an admixture gives no greenness to gold: and I have been informed by our workmen, that this kind of leaf is made from the same fine gold as the highest gold-coloured sort, the greenish hue being only a superficial tint induced upon the gold in some part of the process: this greenish leaf is little otherwise used than for the gilding of certain books.

"But though the gold-beater cannot advantageously diminish the quantity of gold in the leaf by the admixture of any other substance with the gold, yet means have been contrived, for some particular purposes, of saving the precious metal, by producing a

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League. kind of leaf called *party-gold*, whose basis is silver, and which has only a superficial coat of gold upon one side: a thick leaf of silver and a thinner one of gold, laid flat on one another, heated and pressed together, unite and cohere; and being then beaten into fine leaves, as in the foregoing process, the gold, though its quantity is only about one-fourth of that of the silver, continues every where to cover it, the extension of the former keeping pace with that of the latter.

LEAGUE, a measure of length, containing more or fewer geometrical paces, according to the different usages and customs of countries. A league at sea, where it is chiefly used by us, being a land-measure mostly peculiar to the French and Germans, contains 3000 geometrical paces, or three English miles. The French league sometimes contains the same measure, and in some parts of France it consists of 3500 paces: the mean or common league consists of 2400 paces, and the little league of 2000. The Spanish leagues are larger than the French, 17 Spanish leagues making a degree, or 20 French leagues, or $69\frac{1}{2}$ English statute-miles. The Dutch and German leagues contain each four geographical miles. The Persian leagues are pretty near of the same extent with the Spanish; that is, they are equal to four Italian miles: which is pretty near to what Herodotus calls the length of the Persian parasang, which contained 30 stadia, eight whereof, according to Strabo, make a mile. The word comes from *leuca*, or *leugd*, an ancient Gaulish word for an itinerary measure, and retained in that sense by the Romans. Some derive the word *leuca* from *λευκος*, "white;" as the Gauls, in imitation of the Romans, marked the spaces and distances of their roads with white stones.

LEAGUE also denotes an alliance or confederacy between princes and states for their mutual aid, either in attacking some common enemy, or in defending themselves. The word comes from *liga*, which in the corrupt Latin was used for a *confederacy*: *Qua quis cum alio ligatur*.

Leagues, among the Greeks, were of three sorts: 1. *Σπονδή*, *Συνθήκη*, or *Ειρήνη*, whereby both parties were obliged to cease from hostilities, without even molesting the allies of each other; 2. *Επιμαχία*, whereby they engaged to lend assistance to each other in case of invasion; and, 3. *Συμμαχία*, whereby they engaged to have the same friends and enemies, and to assist each other upon all occasions. All these leagues were confirmed with oaths, and imprecations, and sacrifices. The victims most generally used were a boar, ram, or goat, sometimes all three; and sometimes bulls and lambs. They cut out the testicles of the animal, and stood upon them while they swore; and some of the hair of the victim was distributed to all present. Then they cut the animal's throat, which was called *ορχία τεμνεν*, in Latin, *ferire fœdus*.—This done, they repeated their oaths and imprecations, calling the gods to witness the honesty of their intentions. A libation was then made of wine, which at this time was mixed, to imply their conjunction and union: while this was pouring out, they prayed that the blood of him who should break the treaty might be poured out in like manner. Upon these occasions no part of the victim was eaten. Still further to increase the solemnity of this obligation, the league was engraven upon brass,

fixed up in places of public concourse, and sometimes read at the solemn games. Some exchanged certain *Συμβολα* or *tesserae* upon the occasion, and frequently sent ambassadors, on some appointed day, to keep them in mind of their engagements to each other.

The ceremonies of the Romans in making leagues were performed by the *Feciales*. See **FECIALES**.

LEAGUES of the Grisons, are a part of Switzerland, consisting of three subdivisions, viz. the upper league, the league of the house of God, and the league of the ten jurisdictions. See the article **GRISONS**.

The **LEAGUE**, by way of eminence, denotes that famous one on foot in France, from the year 1576 to 1593. Its intent was to prevent the succession of Henry IV. who was of the reformed religion, to the crown; and it ended with his abjuration of that faith.

The *leaguers*, or confederates, were of three kinds. The *zealous leaguers* aimed at the utter destruction not only of the Huguenots, but also of the ministry. The *Spanish leaguers* had principally in view the transferring the crown of France to the king of Spain, or the infant his daughter. The *moderate leaguers* aimed only at the extirpation of Calvinism, without any alteration of the government.

LEAK, at sea, is a hole in the ship, through which the water comes in. A ship is said to *spring a leak* when she begins to *leak* or to let in the water. The manner of stopping a leak is to put into it a plug wrapped in oakum and well tarred, or in a tawrpawling clout, which keeps out the water, or nailing a piece of sheet lead on the place. Seamen sometimes stop a leak by thrusting a piece of salt beef into it. The sea-water, says Mr Boyle, being fresher than the brine imbibed by the beef, penetrates into its body, and causes it to swell so as to bear strongly against the edges of the broken plank, and thereby stops the influx of the water.—A ready way to find a leak in a ship is to apply the narrower end of a speaking trumpet to the ear, and the other to the side of the ship where the leak is supposed to be; then the noise of the water issuing in at the leak will be heard distinctly, whereby it may be discovered.

LEAKAGE, the state of a vessel that leaks, or lets water or other liquid ooze in or out.

LEAKAGE, in commerce, is an allowance of 12 per cent. in the customs, allowed to importers of wines for the waste or damage it is supposed to have received in the passage: an allowance of two barrels in 22 is also made to the brewers of ale and beer by the excise-office.

LEAKE (Richard), master-gunner of England, was born at Harwich in 1629, and was bred to the sea. At the restoration, he was made master-gunner of the *Princess*, a frigate of 50 guns; and in the first Dutch war distinguished himself by his skill and bravery in two extraordinary actions; one against 15 sail of Dutch men of war; and another in 1667 against two Danes in the Baltic, in which the commanding officers of the *Princess* being killed or desperately wounded, the command, according to the rules of war at that time, fell to the gunner. In 1669, he was promoted to be gunner of the *Royal Prince*, a first-rate man of war. He was engaged, with his two sons Henry and John, in the battle against Van Tromp, in 1673; when the *Royal Prince* had all her masts shot away, near

Leake.

Leake.

near 400 of her men killed and disabled, and most of her upper tier of guns dismounted. As she lay thus like a wreck, a great Dutch man of war came down upon her with two fire-ships, either to burn or carry her off; and Captain Rooke, afterwards Sir George, thinking it impossible to defend her, ordered the men to save their lives, and the colours to be struck. Mr Leake hearing this, ordered the lieutenant off the quarter-deck, and took the command upon himself, saying, "The Royal Prince shall never be given up to the enemy while I am alive to defend her." The undaunted spirit of the brave gunner inspired the small residue of the ship's company with resolution: they returned with alacrity to the fight, and under the direction of this valiant gunner and his two sons sunk both the fire-ships, and obliged the man of war to sheer off; and having thus saved the Royal Prince, he brought her into Chatham. But Mr Leake's joy in obtaining this victory was damped by the loss of Henry, his eldest son, who was killed near him. Soon after, Mr Leake was preferred to the command of a yacht, and also made gunner of Whitehall. In 1677, he obtained a grant for life of the office of master-gunner of England, and store-keeper of the ordnance at Woolwich. By these posts he had full scope for his genius. He accordingly, among other things, invented the cusee-piece; and contrived to fire a mortar by the blast of a piece, which has been used ever since. He was also the principal contriver of what the French call *infernals*, used at the bombardment at St Malo's in 1693. Mr Leake had a surprising genius for all inventions of this kind; and had frequent trials of skill with French and Dutch gunners and engineers in Woolwich warren, at which king Charles II. and the duke of York were often present, and he never failed to excel all his competitors: nor was he less skilled in the art of making compositions for fireworks; of which he likewise made frequent trials with equal success.

LEAKE (Sir John), an English admiral, distinguished by his bravery and success, was born in 1656, and was taught mathematics and gunnery by Mr Richard Leake his father, who was master-gunner of England. Entering early into the navy, he distinguished himself under his father in 1673, in the memorable engagement between Sir Edward Spragg and Van Tromp, when but 16 years of age; and being afterwards made captain, he signalized himself, among other occasions, by executing the desperate attempt of conveying some victualers into Londonderry, which obliged the enemy to raise the siege; and at the famous battle of La Hogue. In 1702, being made commodore of a squadron, he destroyed the French trade and settlements at Newfoundland, and restored the English to the possession of the whole island. On his return he was created rear-admiral; soon after, he was made vice-admiral of the blue, and was afterwards knighted. He was engaged with admiral Rook in taking Gibraltar: soon after which, he particularly distinguished himself in the general engagement off Málaga; when commanding the leading squadron of the van, consisting only of six ships, he drove that of the enemy, consisting of 13, out of the line of battle, so disabled that they never returned to the fight. In 1705,

he relieved Gibraltar, which the French had besieged by sea, and the Spaniards by land, so seasonably, that the enemy was to have attacked the town that very night in several places, and would undoubtedly have made themselves masters of it. Five hundred Spaniards had, by the help of rope-ladders, climbed up the rocks by a way that was thought inaccessible. At the same time they had got a great number of boats to land 3000 men at the New Mole, who, by making a vigorous assault on the side next the sea, were to draw the garrison to oppose that attack, while the 500 concealed men rushed into the town. These being the next day drawn by hunger out of their ambuscade, were discovered; on which Sir John assisting the garrison with sailors and marines, they were attacked with such vigour, that, though they had taken an oath not to surrender to the English, 190 common soldiers and 30 officers took quarter; 200 were killed on the spot; and the rest, who endeavoured to make their escape, fell headlong down the rock. He was soon after made vice-admiral of the white, and then twice relieved that fortress. The last time, he attacked five ships of the French fleet coming out of the bay, of whom two were taken, and two run ashore and were destroyed: baron Pointi died soon after, of the wounds he received in the battle; and in a few days the enemy raised the siege. In the year 1705, Sir John was engaged in the reduction of Barcelona; and the next year relieved that city, when it was reduced to the last extremity, and obliged king Philip to raise the siege. Soon after he took the city of Carthage; from whence proceeding to Alicante and Joyce, both these submitted to him; and he concluded the exploits of that year with the reduction of the city and island of Majorca. Upon his return home, prince George of Denmark made him a present of a ring valued at 400 l. and he had the honour of receiving 1000 l. from the queen as a reward for his services. Upon the unhappy death of Sir Cloudesly Shovel, in 1707, he was made admiral of the white, and commander in chief of her majesty's fleet; and the next year, surprising a convoy of the enemy's corn, he sent it to Barcelona, and thus saved both that city and the confederate army from the danger of famine: soon after, convoying the new queen of Spain to king Charles her consort, her majesty made him a present of a diamond ring of 500 pounds value. He then proceeded to the island of Sardinia, which he reduced to the obedience of king Charles; and soon after assisted the lord Stanhope in the conquest of Minorca. Then returning home, he was appointed one of the council to the lord high admiral; and in 1709, was made rear admiral of Great Britain. He was several times chosen member of parliament for Rochester; and in 1712 conducted the English forces to take possession of Dunkirk. But upon the accession of king George I. he was superseded, and allowed a pension of 600 l. a-year. After this he lived privately till his death, which happened at his house in Greenwich in 1720.

LEAKE (Stephen Martin, Esq;) son of Captain Martin, went through different ranks in the heralds office till he came to be garter. He was the first person who wrote professedly on our English coins, two editions of his "Historical Account" of which were

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published by him with plates, under the title of *Nummi Britannici Historia*, London, 1726, 8vo; the second, much improved, London, 1745, 8vo. He printed, in 1750, "The Life of Sir John Leake, knight, admiral of the fleet," &c. to whom he was indebted for a considerable estate; which the Admiral devised to trustees for the use of his son for life; and upon his death to Captain Martin (who married Lady Leake's sister) and his heirs: By which means it came to the Captain's son; who, in gratitude to the memory of Sir John Leake, wrote an accurate account of his life, of which only 50 copies were printed. In 1766, he printed also 50 copies of "The Statutes of the Order of the Garter," 4to. He died in 1773; and was buried in his chancel in the parish church of Thorp in Essex, of which manor he was lord.

LEANDER, in poetic history, a young man of Abydos in Asia. He used to swim over the Hellespont by night to visit Hero his mistress, who set forth a light to guide him: but in a tempestuous winter-night he was drowned; upon which Hero seeing him dead on the shore, cast herself headlong from the tower, and died also. See HERO.

LEAO, in natural history, a mineral substance approaching to the nature of the lapis lazuli, found in the East Indies, and of great use in the Chinese porcelain manufactures, being the finest blue they are possessed of. This stone is found in the strata of pit-coal, or in those of a yellowish or reddish earth in the neighbourhood of the veins of coal. There are often found pieces of it lying on the surface of the ground, and these are a sure indication that more will be found on dipping. It is generally found in oblong pieces of the size of a finger, not round, but flat. Some of this is very fine, and some coarse and of a bad colour. The latter is very common; but the fine sort is scarce, and greatly valued. It is not easy to distinguish them at sight, but they are found by experiment; and the trying one piece is generally sufficient for judging of the whole mine, for all that is found in the same place is usually of the same sort.

The manner of preparing it for use is this: They first wash it very clean, to separate it from the earth or any other foulness it may have: they then lay it at the bottom of their baking furnaces; and when it has been thus calcined for three or four hours, it is taken out, and powdered very fine in large mortars of porcelain, with stone pestles faced with iron. When the powder is perfectly fine, they pour in boiling water, and grind that with the rest, and when it is thoroughly incorporated, they add more, and finally pour it off after some time settling. The remainder at the bottom of the mortar, which is the coarser part, they grind again with more water; and so on till they have made the whole fine, excepting a little dirt or grit. When this is done, all the liquors are mixed together, and well stirred. They are suffered to stand two or three minutes after this, and then poured off with the powder remaining in them: this is suffered to subside gradually, and is the fine blue used in their best works, our common smalt serving for the blue of all the common china ware.

LEAP, in music, is when the song does not proceed by conjoint degrees, as when between each note there is an interval of a third, a fourth, fifth, &c.

LEAP-Year. See YEAR, and CHRONOLOGY, n° 24.
Lovers-LEAP. See LEUCATA.

LEAPING, or VAULTING, was an exercise much used both amongst the Greeks and Romans. The Grecians called it *αλμα*, and performed it with weights upon their heads and shoulders. Sometimes they carried the weights in their hands, which were of different figures, but generally oval and made with holes or covered with thongs, through which the contenders put their fingers. These weights were called *αλινες*. The contest was who could leap the highest and farthest. The place from whence they jumped was called *βεληρ*, and that to which they leaped, *ισοκαμμενα*, because the ground was there dug up. This exercise was performed in the same manner by the Romans.

LEAR, the name of a British king said in old chronicles to have succeeded his father Bladud, about A. M. 3160. The story of this king and his three daughters, is well known from Shakespeare's excellent tragedy founded on it.

LEASE, from the French *laiser*, *demitte*, "to let," in law, a demise, or letting of lands, tenements, or hereditaments, unto another for life, term of years, or at will, for a rent reserved.

A lease is either written, called an *indenture*, *deed-poll*, or *lease* in writing; or by word of mouth, called *lease parole*.

All estates, interests of freehold, or terms for years in lands, &c. not put in writing and signed by the parties, shall have no greater effect than as estates at will; unless it be of leases not exceeding three years from the making; wherein the rent reserved shall be two-thirds of the value of the things demised. Leases exceeding three years must be made in writing; and if the substance of a lease be put in writing, and signed by the parties, though it be not sealed, it shall have the effect of a lease for years, &c.

An *assignment* differs from a lease only in this; that by a lease one grants an interest less than his own, reserving to himself a reversion; in assignments he parts with the whole property, and the assignee stands to all intents and purposes in the place of the assignor.

LEASE, in Scots law. See TACK.

LEASE and *Release*, a species of conveyance used in the English law, first invented by Serjeant Moore, soon after the statute of uses, and now the most common of any, and therefore not to be shaken; though very great lawyers (as particularly Mr Noy) have formerly doubted its validity. It is thus contrived. A lease, or rather bargain and sale, upon some pecuniary consideration, for one year, is made by the tenant of the freehold to the lessee or bargainee. Now this, without any enrolment, makes the bargainor stand seised to the use of the bargainee, and vests in the bargainee the use of the term for a year; and then the statute immediately annexes the *possession*. He therefore, being thus in possession, is capable of receiving a release of the freehold and reversion, which must be made to a tenant in possession: and accordingly, the next day, a release is granted to him. This is held to supply the place of livery of seisin; and so a conveyance by lease and release is said to amount to a feoffment.

LEASH, among sportsmen, denotes three creatures

Leaping
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Leash.

Leasing, Leather. tures of any kind; but chiefly gre-hounds, foxes, bucks, and hares.

The term *leash* also signifies a line to hold in a hunting dog; and a small long thong of leather, by which a falconer holds his hawk.

LEASING MAKING, in Scots law, the uttering of words tending to excite discord between the king and his people; also called *verbal sedition*.

LEATHER, the skin of several sorts of beasts dressed and prepared for the use of various manufacturers, whose business it is to make them up.

Dyeing of LEATHER, Skins, &c. *Blue* is given by steeping the subject a day in urine and indigo, then boiling it with alum: or it may be given by tempering the indigo with red-wine, and washing the skins therewith. *Red* is given by washing the skins, and laying them two hours in galls, then wringing them out, dipping them in a liquor made with ligustrum, alum, and verdigrease in water; and lastly, in a dye made of brazil-wood, boiled with ley. *Purple* is given by wetting the skins with a solution of roche alum in warm water; and, when dry again, rubbing them with the hand with a decoction of log-wood in colder. *Green* is given by smearing the skin with sap-green and alum-water boiled. *Dark green* is also given with steel-filings and sal armoniac steeped in urine till soft, then smeared over the skin; which is to be dried in the shade. *Sky-colour* is given with indigo steeped in boiling water, and the next morning warmed and smeared over the skin. *Yellow*, by smearing the skin over with aloes and linseed-oil dissolved and strained; or by infusing it in weld. *Orange-colour* is given by smearing with fustic berries boiled in alum-water; or, for a deep orange, with turmeric.

Processes for Dyeing LEATHER Red and Yellow as practised in Turkey, with directions for Preparing and Tanning the Skins; as communicated by Mr Philipppo, a native of Armenia, who received from the Society for the Encouragement of Arts, &c. one hundred pounds, and also the gold medal of the Society, as a reward for discovering this secret.

1. *First Preparation of the Skins, both for Red and Yellow Leather, by dressing them in Lime.* Let the skins, dried with the hair on, be first laid to soak in clean water for three days; let them then be broken over the flesh-side, put into fresh water for two days longer, and afterwards hung up to drain half an hour. Let them now be broken on the flesh-side, limed in cold lime on the same side, and doubled together with the grain-side outward. In this state they must be hung up within-doors over a frame for five or six days, till the hair be loose; which must then be taken off, and the skins returned into the lime-pit for about three weeks. Take them out, and let them be well worked flesh and grain, every sixth or seventh day during that time: after which, let them be washed ten times in clear water, changing the water at each washing. They are next to be prepared in drench, as below mentioned.

2. *Second Preparation of the Skins for both the Red and Yellow Dyes by drenching.* After squeezing the water out of the skins, put them into a mixture of bran and water, warm as new milk, in the following proportions; viz. about three pounds of bran for five

skins, and water sufficient to make the mixture moderately fluid, which will be about a gallon to each pound of bran. In this drench let the skins lie three days; at the end of which time they must be well worked, and afterwards returned into the drench two days longer. They must then be taken out and rubbed between the hands; the water squeezed from them, and the bran scraped off clear from both sides of the skins. After this they must be again washed ten times in clear water, and the water squeezed out of them.

Thus far the preparatory process of all the skins, whether intended to be dyed red or yellow, is the same; but afterwards those which are to be dyed red, must be treated as follows.

3. *Preparation in Honey and Bran of the Skins that are to be dyed Red.* Mix one pound of honey with three pints of luke warm water, and stir them together till the honey is dissolved. Then add two double handfuls of bran; and taking four skins (for which the above quantity of the mixture will be sufficient) work them well in it one after another. Afterwards fold up each skin separately into a round form, with the flesh-side inwards; and lay them in an earthen pan, or other proper vessel; if in the summer, by the side of each other; but in the winter, on the top of each other. Place the vessel in a sloping position, so that such part of the fluid as may spontaneously drain from the skins, may pass from them. An acid fermentation will then rise in the liquor, and the skins will swell considerably. In this state they must continue for seven or eight days; but the moisture that drains from them must be poured off, once or twice a-day, as occasion may require. After this a further preparation in salt is necessary; and which must be performed in the following manner.

4. *Preparation in Salt, of the Skins to be dyed Red.* After the skins have been fermented in the honey and bran, as above mentioned, let them be taken out of that mixture on the eighth or ninth day, and well rubbed with dry common sea-salt, in the proportion of about half a pound to each skin; the salt must be well rubbed and worked with them. This will make them contract again, and part with a further considerable quantity of moisture; which must be squeezed out by drawing each skin separately through the hands. They must next be scraped clean on both sides from the bran, superfluous salt, and moisture that may adhere to them. After which, dry salt must be strewed over the grain-side, and well rubbed in with the hand. They are then to be doubled with the flesh-side outwards, lengthwise from neck to tail, and a little more dry salt must be thinly strewed over the flesh-side, and rubbed in; for the two last operations, about a pound and a half of salt will be sufficient for each skin. They must then be put, thus folded on each other, between two clean boards, placed sloping, breadthwise; and a heavy weight laid on the upper board, in order gradually to press out what moisture they will thus part with. In this state of pressure, they must be continued two days or longer, till it is convenient to dye them, for which they will then be duly prepared.

5. *Preparation of the Red Dye, in a proper proportion for four skins.* Put eight gallons of water into a copper,

Leather.

Leather. copper, with seven ounces of shenan (A) tied up in a linen bag. Light a fire under a copper; and when the water has boiled about a quarter of an hour, take out the bag of shenan, and put into the boiling fluid or lixivium, 1st, two drams of alum; 2dly, two drams pomegranate-bark; 3dly, three quarters of an ounce of turmeric; 4thly, three ounces of cochineal; 5thly, two ounces of loaf-sugar. Let the whole mixture boil about six minutes, then cover the fire, and take out a quart of liquor, putting it into a flat earthen pan; and when it is as cold as new milk, take one skin, folded lengthwise, the grain side outwards, and dip it in the liquor, rubbing it gently with the hands. Then taking out the skin, hang it up to drain, and throw away the superfluous dye. Proceed in the same manner with the remaining three skins; repeating the operation of each skin separately, eight times, squeezing the skins by drawing them through the hands before each fresh dipping. Lay them now on one side of a large pan, set sloping, to drain off as much of the moisture as will run from them without pressure, for about two hours, or till they are cold; then tan them as below directed.

6. *Tanning the Red Skins.* Powder four ounces of the best white galls in a marble mortar, sifting it thro' a fine sieve. Mix the powder with about three quarts of water, and work the skins well in this mixture for half an hour or more, folding up the skins four-fold. Let them lie in this tan for 24 hours; when they must be worked again as before; then taken out, scraped clean on both sides from the first galls, and put into a like quantity of fresh galls and water. In this fresh mixture they must be again well worked for three quarters of an hour; then folded up as before, and left in the fresh tan for three days. On the fourth day they must be taken out, washed clean from the galls in seven or eight fresh quantities of water, and then hung up to dry.

7. *Manner of Dressing the Skins after they are tanned.* When the skins have been treated as above, and are very near dry, they should be scraped with the proper instrument or scraper on the flesh-side, to reduce them to a proper degree of thickness. They are then to be laid on a smooth board, and glazed by rubbing them with a smooth glass. After which they must be oiled, by rubbing them with olive-oil, by means of a linen rag, in the proportion of one ounce and a half of oil for four skins: they are then to be grained on a graining-board, lengthwise, breadthwise, and cornerwise, or from corner to corner.

8. *Preparations with Galls, for the Skins to be dyed*

Yellow. After the four skins are taken out of the drench of brán, and clean washed as before directed in the second article, they must be very well worked, half an hour or more, in a mixture of a pound and an half of the best white galls, finely powdered, with two quarts of clean water. The skins are then to be separately doubled lengthwise, rolled up with the flesh-side outwards, laid in the mixture, and close pressed down on each other, in which state they must continue two whole days. On the third day let them be again worked in the tan; and afterwards scraped clean from the galls, with an ivory or brass instrument (for no iron must touch them). They must then be put into a fresh tan, made of two pounds of galls finely powdered, with about three quarts of water, and well worked therein 15 times. After this they must be doubled, rolled up as before, and laid in the second tan for three days. On the third day a quarter of a pound of white sea-salt must be worked into each skin; and the skins doubled up as before, and returned into the tan, till the day following, when they are to be taken out, and well washed six times in cold water, and four times in water lukewarm. The water must be then well squeezed out, by laying the skins under pressure, for about half an hour, between two boards, with a weight of about 200 or 300 pounds laid upon the uppermost board, when they will be ready for the dye.

9. *Preparation of the Yellow Dye, in the proper proportion for four Skins.* Mix six ounces of cassiari gehira (B), or dgehira, or the berries of the eastern rhamnus, with the same quantity of alum; and pound them together till they be fine, in a marble or brass mortar, with a brass pestle. Then dividing the materials, thus powdered, into three equal parts of four ounces each, put one of those three parts into about a pint and a half of water, in a china or earthen vessel, and stir the mixture together. Let the fluid stand to cool, till it will not scald the hand. Then spreading one of the skins flat on a table, in a warm room, with the grain-side uppermost, pour a fourth part of the tinging liquor, prepared as above directed, over the upper or grain-side, spreading it equally over the skin with the hand, and rubbing it well in. Afterwards do the like with the other three skins, for which the mixture first made will be sufficient.

This operation must be repeated twice more on each skin separately, with the remaining eight ounces of the powder of the berries, and alum, with the above mentioned due proportions of hot water, put to them as before directed.

The

(A) Shenan is a drug much used by dyers in the East; and may easily be procured at any of the ports of Syria and Africa, in the Levant. It is the Eastern jointed-kali, called by botanists *salicornia*; and grows in great plenty in those and other parts of the East. There is a lesser species of the *salicornia* on our coast, which, from its great affinity with the shenan, might be presumed to have the same qualities. On some trials, however, it has not appeared to answer the intention of the shenan; but it will not be prudent to pursue the examination of this further, as some unknown circumstances in the collecting or using the English *salicornia* might occasion the miscarriage. But be this as it may, the Eastern shenan may, at all events, be easily procured in any quantity, at a very trifling expence, by any of the captains of Turkey ships, at Aleppo, Smyrna, &c.

(B) The cassiari gehira is the berries of an eastern rhamnus, or buckthorn-tree; and may be had at Aleppo, and other parts of the Levant, at a small price. The common Avignon or yellow berries may be substituted, but not with so good an effect; the cassiari gehira being a stronger and brighter yellow dye, both for this use and also that of colouring paper-hangings, &c.

Leather,
Leaven.

The skins, when dyed, are to be hung up on a wooden frame, without being folded, with the grain-side outwards, about three quarters of an hour to drain; when they must be carried to a river or stream of running water, and well washed therein six times or more. After this they must be put under pressure for about an hour, till the water be well squeezed out; afterwards the skins must be hung up to dry in a warm room.

This being done, the skins are to be dressed and grained as before directed for those dyed red; except the oiling, which must be omitted.

Blacking LEATHER. In the tanning of leather it is so much impregnated with the astringent parts of oak-bark, or with that matter which strikes a black with green vitriol, that rubbing it over three or four times with a solution of the vitriol, or with a solution of iron made in vegetable acids, is sufficient for staining it black. Of this we may be convinced by dropping a little of the solution on the unblackened side of common shoe-leather. This operation is performed by the currier; who, after the colouring, gives a gloss to the leather with a solution of gum-arabic and size made in vinegar. Where the previous astringent impregnation is insufficient to give due colour, and for those sorts of leather which have not been tanned, some galls or other astringents are added to the solution of iron; and in many cases, particularly for the finer sorts of leather, and for renewing the blackness, ivory or lamp-black are used. A mixture of either of these with linseed oil makes the common oil-blackening. For a shining blacking, small beer or water are taken instead of oil, in the quantity of about a pint to an ounce of the ivory-black, with the addition of half an ounce of brown sugar and as much gum-arabic. The white of an egg, substituted for the gum, makes the black more shining, but is supposed to hurt the leather, and make it apt to crack. It must be obvious, however, that all these compositions admit of a great many variations.

Gilding of LEATHER. Take glair of the whites of eggs, or gum water, and with a brush rub over the leather with either of them; then lay on the gold or silver, and, letting them dry, burnish them. See the articles GILDING and BURNISHING.

To dress or cover LEATHER with Silver or Gold. Take brown-red; grind or move it on a stone with a muller, adding water and chalk; and when the latter is dissolved, rub or lightly daub the leather over with it, till it looks a little whitish; and then lay on the leaf-silver or gold before the leather is quite dry, laying the leaves a little over each other, that there may not be the least part uncovered; and when they have well closed with the leather, and are sufficiently dried on and hardened, rub them over with an ivory polisher, or the foretooth of a horse.

LEAVEN, a piece of four dough, used to ferment and render light a much larger quantity of dough or paste. See BREAD, BARM, and BAKING.

Leaven was strictly forbidden by the law of Moses during the seven days of the passover; and the Jews, in obedience to this law, very carefully purified their houses from all leaven as soon as the vigil of the feast began. Nothing of honey or leaven was to have place in any thing presented to the Lord, upon his altar, during this solemnity. If, during the feast, the least

particle of leaven was found in their houses, they imagined the whole was polluted, for a little leaven leaveneth the whole lump. Leaven, in its figurative sense, signifies the bad passions of envy and malice, and rancour, which sour the temper, and extend their ferment over the social affections; whereas unleavened bread implies sincerity and truth. It is frequently used for any kind of moral contagion.

LEAVES OF PLANTS. See LEAF.

Colours extracted from LEAVES. See COLOUR-Making, n^o 37.

LEBADEA, or LEBADIA, an ancient town of Bœotia, on the borders of Phocis, situated between Helicon and Chæronea, near Coronæa. In it stood the oracle of Jupiter Trophonius, which whoever went to consult, descended into a subterraneous gulf.

LEBEDA, an ancient sea-port town of Africa, in the kingdom of Tripoli, with a pretty good harbour, and an old castle, seated on the Mediterranean Sea; in E. Long. 14. 50. N. Lat. 32. 10.

LEBEDOS, reckoned among the twelve ancient cities of Ionia, was situated to the south of Smyrna. It was the residence of stage-players, and the place where they met from all parts of Ionia, as far as the Hellespont, and celebrated annual games in honour of Bacchus, (Strabo). It was overthrown by Lyfimachus, who removed the inhabitants to Ephesus; scarce ever after recovering itself, and becoming rather a village than a town, (Horace.)

LEBEN, or LEBENA, (anc. geog.) one of the port-towns of the Gortynians, near the promontory Leon, on the south-east side of Crete; famous for a temple of Æsculapius in imitation of that of Cyrenaica.

LEBRIXA, an ancient, strong, and pleasant town of Spain, in Andalusia; seated on a territory abounding in corn, wine, and a great number of olive-trees, of whose fruit they make the best oil in Spain. W. Long. 5. 32. N. Lat. 36. 52.

LEBUS, a town of Germany, in the circle of Upper Saxony, and in the marquisate of Brandenburg, with a bishop's see, secularized in favour of the house of Brandenburg. It is seated on the river Oder, in E. Long. 14. 55. N. Lat. 52. 28.

LECCE, a rich, populous, and most beautiful town of Italy, in the kingdom of Naples and in the Terra d'Otranto, of which it is the chief place, and the see of a bishop. E. Long. 18. 20. N. Lat. 40. 38.

LECCO, a town of Italy, in the duchy of Milan, seated on the eastern side of the lake Como. E. Long. 9. 40. N. Lat. 45. 45.

LECHLADE, a town of Gloucestershire in England, seated at the confluence of the river Lech with the Thames. W. Long. 2. 15. N. Lat. 51. 42.

LECHNICH, a town of Germany in the circle of the Lower Rhine, and in the electorate of Cologne. E. Long. 6. 35. N. Lat. 50. 40.

LECTI, beds or couches, were of two kinds among the Romans, as being destined to two different uses, to lie upon at entertainments, and to repose upon for nightly rest. The first were called *lecti tricliniares*, the other *lecti cubicularii*. See BEDS.

LECTICA, was a litter or vehicle, in which the Romans were carried. It was of two kinds, covered and uncovered. The covered lectica is called by Pliny

Leaves
||
Lectica.

Lecticarii *ny cubiculum viatorum*, a traveller's bed-chamber: And indeed we are informed that Augustus frequently ordered his servants to stop his litter that he might sleep upon the road. This vehicle was carried by six or eight men called *lecticarii*. The *lectica* differed from the *fella*, for in the first the traveller could recline himself for sleep, in the latter he was obliged to sit. The *lectica* was invented in Bithynia; the *fella* was a Roman machine, and esteemed the more honourable of the two. *Lectica* was also the name of the funeral bed or bier for carrying out the dead.

LECTICARII, among the Romans, servants who carried the **LECTICA**.

LECTICARIUS was also an officer in the Greek church, whose business it was to bear off the bodies of those who died, and to bury them. These were otherwise denominated *decani* and *copiata*.

LECTIO, *reading*. Considered in a medicinal view, it is said by Celsus, lib. i. cap. 4. to be bad, especially after supper, for those whose heads are weak; and in lib. i. cap. 8. he recommends reading with an audible voice for such as have weak stomachs. It is also directed by Paulus Aeginetus as an exercise, lib. i. cap. 19.

LECTISTERNIUM, a solemn ceremony observed by the Romans in times of public danger, wherein an entertainment was prepared with great magnificence, and served up in the temples. The gods were invited to partake of the good cheer, and their statues placed upon couches round the table in the same manner as men used to sit at meet. The first *lectisternium* held at Rome was in honour of Apollo, Latona, Diana, Hercules, Mercury, and Neptune, to put a stop to a contagious distemper which raged amongst the cattle, in the year of Rome 354. At these feasts the *Epulones* presided, and the sacred banquet was called *epulum*. See **EPULO**, **EPULUM**, &c.

Something like the *lectisternium* was occasionally observed amongst the Greeks, according to Casaubon.

LECTORES, among the Romans, servants in great mens houses, who were employed in reading while their masters were at supper. They were called by the Greeks **ANAGNOSTÆ**.

LECTOURE, an ancient and strong town of France, in Gascony, with a castle and a bishop's see; seated on a mountain at the foot of which runs the river Gers. E. Long. 0. 42. N. Lat. 43. 56.

LECTURERS, in England, are an order of preachers in parish churches, distinct from the rector, vicar, and curate. They are chosen by the vestry, or chief inhabitants of the parish, supported by voluntary subscriptions and legacies, and are usually the afternoon preachers in the Sunday service. The term is also more generally applied to those who preach on Sunday, or on any stated day of the week, in churches, or other places of public worship. By 13 & 14 Car. II. cap. 4. lecturers in churches, unlicensed, and not conforming to the liturgy, shall be disabled, and shall also suffer three months imprisonment in the common gaol; and two justices, or the mayor in a town corporate, shall, upon certificate from the ordinary, commit them accordingly. Where there are lectures founded by the donations of pious persons, the lecturers are appointed by the founders without any interposition

N^o 179.

or consent of rectors of churches, &c. though with the leave and approbation of the bishop; such as that of Lady Moyer's at St Paul's. But the lecturer is not intitled to the pulpit, without the consent of the rector or vicar, who is possessed of the freehold of the church.

LEDA, (fab. hist.) a daughter of king Theopius and Eurythemis, who married Tyndarus king of Sparta. She was seen bathing in the river Eurotas by Jupiter, when she was some few days advanced in her pregnancy, and the god, struck with her beauty, resolved to deceive her. He persuaded Venus to change herself into an eagle, while he assumed the form of a swan, and after this metamorphosis Jupiter, as if fearful of the tyrannical cruelty of the bird of prey, fled through the air into the arms of Leda, who willingly sheltered the trembling swan from the assaults of his superior enemy. The caresses with which the naked Leda received the swan, enabled Jupiter to avail himself of his situation, and nine months after this adventure the wife of Tyndarus brought forth two eggs, of one of which sprung Pollux and Helena, and of the other Castor and Clytemnestra. The two former were deemed the offspring of Jupiter, and the others claimed Tyndarus for their father. Some mythologists attribute this amour to Nemesis and not to Leda; and they farther mention, that Leda was entrusted with the education of the children which sprung from the eggs brought forth by Nemesis. To reconcile this diversity of opinions, others maintain that Leda received the name of *Nemesis* after death. Homer and Hesiod make no mention of the metamorphosis of Jupiter into a swan, whence some have imagined that the fable was unknown to these two ancient poets, and probably invented since their age.

LEDBURY, a town of Herefordshire in England. It is a well-built town seated on a rich clay soil, and inhabited mostly by clothiers, who carry on a pretty large trade. W. Long. 2. 27. N. Lat. 52. 6.

LEDESMA, an ancient and strong town of Spain, in the kingdom of Leon, seated on the river Tome, in W. Long. 5. 25. N. Lat. 47. 2.

LEDGER, the principal book wherein merchants enter their accounts. See **BOOK-KEEPING**.

LEDUM, *MARSH CISTUS*, or *Wild Rosemary*: A genus of the monogynia order, belonging to the decandria class of plants; and in the natural method ranking under the 18th order, *Bicornes*. The calyx is quinquefid; the corolla plain and quinquepartite; the capsule quinquelocular, and opening at the base. There is but one species, viz. the palustre, with very narrow leaves. This grows naturally upon bogs and mosses in many parts of Yorkshire, Cheshire, and Lancashire; rising with a slender shrubby stalk about two feet high, dividing into many slender branches, garnished with narrow leaves, not much unlike those of heath. The flowers are produced in small clusters at the end of the branches, and are shaped like those of the strawberry-tree, but spread open wider at top. These are of a reddish colour, and in the natural places of their growth are succeeded by seed-vessels filled with small seeds which ripen in autumn.—This plant is with great difficulty kept in a garden; for as it naturally grows upon bogs, unless the plants have a similar soil they will not thrive. They must be procured from the places of their

Leda
H
Ledum.

Lee. their growth, and taken up with good roots, otherwise they will not live.

LEE, an epithet used by seamen to distinguish that part of the hemisphere to which the wind is directed, from the other part whence it arises; which latter is accordingly called to *windward*. This expression is chiefly used when the wind crosses the line of a ship's course, so that all on a side of her is called to *windward*, and all on the opposite side to *leeward*. Hence,

Under the LEE, implies farther to the leeward, or farther from that part of the horizon whence the wind blows: as,

Under the LEE of the Shore; i. e. at a short distance from the shore which lies to windward. This phrase is commonly understood to express the situation of a vessel anchored, or sailing under the weather-shore, where there is always smoother water, and less danger of heavy seas, than at a great distance from it.

LEE-Larches, the sudden and violent rolls which a ship often takes to the leeward in a high sea, particularly when a large wave strikes her on the weather-side.

LEE-Side, all that part of a ship or boat which lies between the mast and the side farthest from the direction of the wind; or otherwise, the half of a ship, which is pressed down towards the water by the effort of the sails, as separated from the other half by a line drawn through the middle of her length. That part of the ship which lies to windward of this line is accordingly called the *weather-side*. Thus admit a ship to be sailing southward, with the wind at east, then is her starboard or right side the *lee-side*; and the larboard, or left, the *weather-side*.

LEE-Stone. See *LEE-Penny*.

LEE-Way. See NAVIGATION.

LEE (Nathaniel), a very eminent dramatic poet of the last century, was the son of a clergyman, who gave him a liberal education.—He received his first rudiments of learning at Westminster school; from whence he went to Trinity-college, Cambridge.—Coming to London, however, his inclination prompted him to appear on the theatre; but he was not more successful in representing the thoughts of other men, than many a genius besides, who have been equally unfortunate in treading the stage, although they knew so well how to write for it. He produced 11 tragedies, all of which contain a very great portion of true poetic enthusiasm. None, if any, ever felt the passion of love more truly; nor could any one describe it with more tenderness. Addison commends his genius highly; observing, that none of our English poets had a happier turn for tragedy, although his natural fire and unbridled impetuosity hurried him beyond all bounds of probability, and sometimes were quite out of nature. The truth is, this poet's imagination ran away with his reason; so that at length he became quite crazy; and grew so mad, that his friends were obliged to confine him in bedlam, where he made that famous witty reply to a coxcomb scribbler, who had the cruelty to jeer him with his misfortune, by observing that it was an easy thing to write like a madman:—"No (said Lee), it is not an easy thing to write like a madman; but it is very easy to write like a fool." Lee had the good fortune to recover the use of his reason so far as to be discharged from his melancholy confinement; but he

did not long survive his enlargement, dying at the early age of 34. Cibber, in his *Lives of the Poets*, says he perished unfortunately in a night-ramble in London streets.—His *Theodosius* and *Alexander the Great* are flock-plays, and to this day are often acted with great applause. The late Mr Barry was particularly fortunate in the character of the Macedonian Hero.

LEE-Penny, or *Lee-stone*, a curious piece of antiquity belonging to the family of Lee in Scotland, and of which the following account has been given in the *Gentleman's Magazine* for December 1787.

It is a stone of a dark red colour and triangular shape, and its size about half an inch each side. It is set in a piece of silver coin, which, though much defaced, by some letters still remaining is supposed to be a shilling of Edward I. the cross being very plain, as it is on his shillings.—It has been, by tradition, in the Lee family since the year 1320 odds; that is, a little after the death of King Robert Bruce, who having ordered his heart to be carried to the Holy Land, there to be buried, one of the noble family of Douglas was sent with it, and it is said got the Crowned Heart in his Arms from that circumstance: but the person who carried the heart was Simon Locard of Lee, who just about this time borrowed a large sum of money from Sir William de Lendfay, prior of Air, for which he granted a bond of annuity of ten pounds of silver, during the life of the said Sir William de Lendfay, out of his lands of Lee and Cartland. The original bond, dated 1323, and witnessed by the principal nobility of the country, is still remaining among the family papers.

As this was a great sum in those days, it is thought it was borrowed for that expedition; and, from his being the person who carried the royal heart, he changed his name to *Lockheart*, as it is sometimes spelled, or *Lockhart*, and got a heart within a lock for part of his arms, with the motto *Corda serata pandō*.—This Simon Lockhart having taken prisoner a Saracen prince or chief, his wife came to ransom him; and on counting out the money or jewels, this stone fell out of her purse, which she hastily snatched up; which Simon Lockhart observing, insisted to have it, else he would not give up his prisoner.—Upon this the lady gave it him, and told him its many virtues, viz. that it cured all diseases in cattle, and the bite of a mad dog both in man and beast. It is used by dipping the stone in water, which is given to the diseased cattle to drink; and the person who has been bit, and the wound or part infected, is washed with the water. There are no words used in the dipping of the stone, nor any money taken by the servants, without incurring the owner's displeasure. Many are the cures said to be performed by it, and people come from all parts of Scotland, and even as far up in England as Yorkshire, to get the water in which the stone is dipped, to give their cattle, when ill of the murrain especially, and black-leg.—A great many years ago, a complaint was made to the ecclesiastical courts against the laird of Lee, then Sir James Lockhart, for using witchcraft.—It is said, when the plague was last at Newcastle, the inhabitants sent for the Lee-penny, and gave a bond for a large sum in trust for the loan; and that they thought it did so much good, that they offered to pay the money, and keep the Lee-penny; but

Lee
||
Leeds.

the gentleman would not part with it. A copy of this bond is very well attested to have been among the family papers, but supposed to have been spoiled, along with many more valuable ones, about 50 years ago, by rain getting into the charter-room, during a long minority, and no family residing at Lee.

The most remarkable cure performed upon any person, was that of Lady Baird of Saughtonhall, near Edinburgh; who having been bit by a mad dog, was come the length of a hydrophobia; upon which, having sent to beg the Lee-penny might be sent to her house, she used it for some weeks, drinking and bathing in the water it was dipped in, and was quite recovered. This happened above 80 years ago; but it is very well attested, having been told by the lady of the then laird of Lee, and who died within these thirty years. She also told, that her husband Mr Lockhart, and she, were entertained at Saughtonhall by Sir Robert Baird and his lady, for several days, in the most sumptuous manner; on account of the lady's recovery, and in gratitude for the loan of the Lee-penny so long, as it was never allowed to be carried away from the house of Lee.

N.B. It was tried by a lapidary, and found to be a stone; but of what kind he could not tell.

LEECH, in zoology. See *HIRUDO*.

LEECHES in a ship, the borders or edges of a sail which are either sloping or perpendicular.

The leeches of all sails whose tops and bottoms are parallel to the deck, or at right angles to the mast, are denominated from the ship's side, and the sail to which they belong; as the *starboard-leech* of the main-sail, the *lee-leech* of the fore-top-sail, &c. But the sails which are fixed obliquely on the masts have their leeches named from their situation with respect to the ship's length; as the *fore-leech* of the mizen, the *after-leech* of the jib or fore-stay sail, &c.

LEECH-Lines, certain ropes fastened to the middle of the leeches of the main-sail and fore-sail, and communicating with blocks under the opposite sides of the top, whence they pass downwards to the deck, serving to truss up those sails to the yard as occasion requires. See *BRAILS*.

LEECH-Rope, a name given to that part of the bolt-rope to which the border or skirt of a sail is sewed. In all sails whose opposite leeches are of the same length, it is terminated above the earing, and below the clue. See *BOLT-Rope*, *CLUE*, and *EARING*.

LEEDS, a town of the West Riding of Yorkshire, 196 miles from London, has a magnificent stone-bridge over the river Aire to the suburbs. It was incorporated by King Charles I. with a chief alderman, nine burgesses, and 20 assistants; and by Charles II. with a mayor, 12 aldermen, and 24 assistants. It has been a long time famous for the woollen manufacture, and is one of the largest and most flourishing towns in the county, yet had but one church till the reign of Charles I. By the late inland navigation, it has communication with the rivers Mersey, Dee, Ribble, Ouse, Trent, Darwent, Severn, Humber, Thames, Avon, &c. which navigation, including its windings, extends above 500 miles in the counties of Lincoln, Nottingham, Lancaster, Westmoreland, Chester, Stafford, Warwick, Leicester, Oxford, Worcester, &c. Here is a long street full of shops, and a hall for the

sale of cloth, built in 1758. The merchants of this place, York, and Hull, ship them off at the latter, for Holland, Hamburg, and the north. After ringing of the market-bell at six or seven in the morning, the chapmen come and match their patterns, when they treat for the cloth with a whisper, because the clothiers' standings are so near each other; and perhaps 20,000 l. worth of cloth is sold in an hour's time. At half an hour after eight the bell rings again, when the clothiers make room for the linen-draper, hardware-men, shoemakers, fruiterers, &c. At the same time the shambles are well stored with all sorts of fish and flesh; and 500 horse loads of apples have been counted here in a day. There is a magnificent hall, where they also sell great quantities of white cloth; and here is a noble guildhall, with a fine marble statue of Queen Anne, erected about the year 1714. Its river being navigable by boats, they send other goods, besides their cloth, to Wakefield, York, and Hull, and furnish York with coals. There is a house called *Red-hall*, because it was the first brick-building in the town, and K. Charles I. had an apartment in it, which is ever since called the *King's chamber*. There is another place called *Tower-hill*, on which there was once a tower; besides which, there was a castle which King Stephen besieged in his march to Scotland. Here was also a park, where are now inclosures. There is a workhouse here of free-stone, where poor children are taught to mix wool, and perform other easy branches of that manufacture, and a part of it has been used many years as an hospital for the reception of the aged poor. Here are three alms-houses, and two charity-schools of blue-coat boys to the number of 100. In the cieling of St Peter's, its only parochial church, the delivery of the law to Moses is finely painted in fresco by Parmentier. It is a venerable free-stone pile built in the cathedral fashion, and seems to have been the patch-work of several ages. The increase of building in Leeds in the year 1786, was nearly 400 houses. There is a Presbyterian meeting-house here, erected in 1691, called the *new chapel*, which is the stateliest, if not the oldest, of that denomination in the north of England; and in the town and its suburbs are several other meeting-houses, as is always observable in towns of great trade and manufacture. It is noted for some medicinal springs; one of which, called *St Peter's*, is an extreme cold one, and has been very beneficial in rheumatisms, rickets, &c. Here is an hospital for relief of the poor, who had been honest and industrious, endowed with 80 l. a-year, besides 10 l. a-year for a master to read prayers and instruct them; also a free school. Its markets are Tuesdays and Saturdays, and the market-laws are more strictly observed here than any where. It has two fairs in the year. Leeds, though a large town, sends no members to parliament.

LEEK, in botany. See *ALLIUM*.

LEEK, a town of Staffordshire in England, 155 miles from London. It lies among the barren moorlands, has a manufacture of buttons, a market on Wednesday, and 7 fairs in the year. In the churchyard, at the south-east corner of the chancel, are the remains of a Danish cross, now upright, and 10 feet high from the ground, beneath which are three steps. In Blue-hills in the neighbourhood are coal-mines; and

Leer
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Leeuw.

and a salt stream comes from thence, which tinges the stones and earth through which it runs with a rusty colour, and, with the infusion of galls, turns as black as ink. Here are rocks of a most surprising height, without any turf or mould upon them.

LEER, in glass-making, a sort of third furnace, intended to anneal and cool by proper degrees the vessels when made. This properly comprehends two parts, the tower and leer. The tower is that part which lies directly above the melting-furnace, with a partition between them of a foot thick, in the midst whereof there is a round hole, placed exactly over the furnace, through which the flame and heat pass into the tower: on the floor of this tower the vessels are set to anneal. There are two openings by which the vessels are put into this tower; and after standing there some time they are put into iron pans, which by degrees are drawn out all along that part of this furnace, which is properly called the *leer*; which is five or six yards long, that the vessels may cool by degrees. This leer is continued to its tower and arched all along, and is about four feet wide, and high within. The glasses are cool by that time they are come to the mouth of this, which enters into a room where the glasses are placed when taken out.

LEES, the grossest and most ponderous parts of liquors, which, being separated by fermentation, fall to the bottom. The word comes from the French *lie*; and that either from *limus* "mud," or from *Lyeus* one of the surnames of Bacchus; or, according to du Cange, from *lia*, a corrupt Latin word signifying the same.—The vinegar-makers make a great trade of the lees of wine dried and made into cakes, after having squeezed out the remains of the liquor in presses.

LEET, or COURT LEET (*leta visus franci plegii*), is a court of record, ordained for punishing offences against the crown; and is said to be the most ancient court of the land. It inquires of all offences under high treason; but those who are to be punished with loss of life or member, are only inquirable and presentable here, and to be certified over to the justices of assize, (Stat. 1. Edw. III.). And this court is called the view of frank pledge, because the king is to be there certified by the view of the steward, how many people are within every leet, and have an account of their good manners and government; and every person of the age of 12 years, who hath remained there for a year and a day, may be sworn to be faithful to the king, and the people are to be kept in peace, &c. A leet is incident to a hundred, as a court baron to a manor: for by grant of a hundred, a leet passeth; and a hundred cannot be without a leet.—The usual method of punishment in the court-leet, is by fine and amercement; the former assessed by the steward, and the latter by the jury.

LEEUW (William de), an eminent engraver of the last century. He was a native of Flanders, and the disciple of Soutman, whose manner of engraving, or rather etching, he imitated. His prints generally appear harsh at first sight; but grow into favour upon examination, and several of them have great effect; particularly his Daniel in the lion's den, a large plate lengthwise, from Rubens. The first impressions of this plate are before the name of Dankertz was added, and are now extremely rare and dear.

LEEWARD Ship, a vessel that falls much to leeward of her course, when sailing close-hauled, and consequently loses much ground.

TO LEEWARD, towards that part of the horizon which lies under the lee, or whither the wind bloweth. Thus, "We saw a fleet *under the lee*," and, "We saw a fleet *to leeward*," are synonymous expressions.

LEG, in anatomy, the whole lower extremity from the acetabula of the ossa innominata, commonly divided into three parts, viz. the thigh, the leg properly so called, and the foot. See ANATOMY, n^o 60.

LEGACY, in Scots law, a donation by one person to another, to be paid by the giver's executor after his death. See LAW, n^o clxxxix, 3.

LEGATE, a cardinal or bishop, whom the pope sends as his ambassador to sovereign princes. See AMBASSADOR.

There are three kinds of legates, viz. legates *a latere*, legates *de latere*, and legates by office, or *legati nati*: of these the most considerable are the legates *a latere*, the next are the legates *de latere*. See the article LATERE.

Legates by office are those who have not any particular legation given them; but who, by virtue of their dignity and rank in the church, become legates: such are the archbishop of Rheims and Arles: but the authority of these legates is much inferior to that of the legates *a latere*.

The power of a legate is sometimes given without the title. Some of the nuncios are invested with it. It was one of the ecclesiastical privileges of England from the Norman conquest, that no foreign legate should be obtruded upon the English, unless the king should desire it upon some extraordinary emergency, as when a case was too difficult for the English prelates to determine.

The term *legate* comes from *legatus*, which Varro derives from *legere*, "to choose;" and others from *legare*, *delegare*, "to send, delegate."

Court of the LEGATE, was a court obtained by Cardinal Woolsey of Pope Leo X. in the ninth year of Henry VIII. wherein he, as legate of the pope, had power to prove wills, and dispense with offences against the spiritual laws, &c. It was but of short continuance.

LEGATEE, in Scots law, the person to whom a legacy is provided.

LEGATIO LIBERA, was a privilege frequently obtained of the state, by senators of Rome, for going into any province or country, upon their own private business, in the quality of *legati* or envoys from the senate, that the dignity of this nominal office might secure them a good reception, and have an influence on the management of their concerns. The cities and towns through which they passed were obliged to defray their expences.—This was called *libera legatio*, because they might lay aside the office as soon as they pleased, and were not encumbered with any actual trust.

LEGATUS, a military officer amongst the Romans, who commanded as deputy of the commander in chief. The *legati*, at their first institution, were not so much to command as to advise. They were generally chosen by the consuls, with the approbation of

Leeward
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Legatus.

Legend.

the senate. As to the number of the *legati*, we have no certain information, though we may upon good grounds assign one to every legion. In the absence of consul or proconsul, they had the honour to use the *fascēs*.

Under the emperors there were two sorts of *legati*, *consulares*, and *prætorii*. The first commanded whole armies, as the emperors lieutenant-generals; and the other had the command of particular legions.

The *legati* under the proconsuls in the provinces, served for judging inferior causes, and management of smaller concerns, remitting things of great moment to the governor or president himself. This was the original office of the *legati*, as was hinted above; though, as we have seen, they were afterwards admitted to command in the army.

LEGEND, any idle or ridiculous story told by the Romanists concerning their saints, and other persons, in order to support the credit of their religion.

The legend was originally a book used in the old Romish churches, containing the lessons to be read at divine service; hence the lives of the saints and martyrs came to be called *legends*, because chapters were read out of them at matins, and at the refectories of religious houses. Among these the golden legend, which is a collection of the lives of the saints, was received in the church with great applause, which it maintained for 200 years; though it is so full of ridiculous and romantic stories, that the Romanists themselves are now ashamed of it.

LEGEND is also used by authors to signify the words or letters engraven about the margins, &c. of coins. Thus the legend of a French crown is, *SIT NOMEN DOMINI BENEDICTUM*; that of a moidore, *IN HOC SIGNO VINCES*: on those of the last emperors of Constantinople, we find

IESVS CHRISTVS BASILEVS BASILEON, IHS XPS NIKA, Legend.
IESVS CHRISTVS VINCIT.

LEGEND is also applied to the inscription of medals, which serves to explain the figures or devices represented on them. In strictness, the legend differs from the inscription; this last properly signifying words placed on the reverse of a medal, in lieu of figures.

It seems as if the ancients had intended their medals should serve both as images and as emblems; the former for the common people, and the other for persons of taste and parts; the images to represent the faces of princes; emblems their virtues and great actions; so that the legend is to be looked on as the soul of the medal, and the figures as the body.

Every medal has properly two legends; that on the front, and that on the reverse. The first generally serves only to distinguish the person by his name, titles, offices, &c. the latter is intended to express his noble and virtuous sentiments, his good deeds, and the advantages the public has reaped by him. This, however, does not hold universally; for sometimes we find the titles shared between both sides, and sometimes also the legend.

In the medals of cities and provinces, as the head is usually the genius of the place, or at least some deity adored there, the legend is the name of the city, province, or deity, or of both together; and the reverse is some symbol of the city, &c. frequently without a legend, sometimes with that of one of its magistrates.

Legends generally commemorate the virtues of princes, their honour and consecrations, signal events, public monuments, deities, vows, privileges, &c. which are either in Latin or Greek, or a mixture of both, and are intended to eternize their names, and the benefits done by them to the empire.

L E G E R D E M A I N,

OR SLEIGHT OF HAND;

A DENOMINATION given to certain deceptive performances, which either depend altogether on dexterity and address, or derive but a small degree of aid from philosophical principles. Of these we shall present our readers with a selection of the best that have been either explained in books or publicly exhibited.

SECT. I. Performances with Cups and Balls.

Preliminary explanations.

THE following method of exercising this simple and ingenious amusement is that practised by one Mr Kopp a German, whose performances are deservedly preferred to those of former artists. In this, however, as in all the other branches belonging to the art of legerdemain, it is not sufficient that a person has the requisite dexterity, or sleight of hand; it is necessary also to take off the attention of the spectators by some entertaining discourse; which not only prevents discovery, but adds greatly to the amusement of the company; for which reason, such discourse is inserted in this article.

To play his part properly, the performer on cups and balls ought to provide himself with a bag about 12 inches long, and from eight to ten in depth. The inside must be furnished with a number of pockets for holding the several articles necessary in the amusement; and this bag the performer must hang before him.

The materials necessary for the performer are,

1. Three white polished tin-cups, represented by A, B, and C (fig. 1.) in the shape of a truncated cone with a double ledge D towards the base. This ledge, which is about half an inch in breadth, serves to raise the cups easily by, admitting also the hand to pass a small cork ball (see fig. 5.) The upper part E of the cup ought to be hollowed in the form of a sphere, sufficient to contain the balls without their appearing above the upper edge of the cups.
2. It is also necessary to have a small rod, called *Jacob's staff*; which is usually made of ebony, and neatly tipped with ivory at both ends. This is frequently used for striking on the cups; and being held in the hand where the balls are also kept, it gives the operator an oppor-

Plate CCLXVIII

opportunity of keeping that hand generally shut, or of varying its position, in order to avoid being discovered. The balls are made of cork, blackened by slight burning on the outside.

The dexterity in performing this operation consists in artfully secreting a ball in the right hand, and making it to appear or disappear in the same hand. The secreting it between the fingers is called *conjuring the ball*, at which time the spectators are to suppose that it is kept in the other hand, or that it was passed under a cup; but if it is made to reappear when held secretly in the hand, they must believe that it came out of the place last touched by the fingers.

Conjuring the ball is performed by putting it between the place of the thumb A and the finger B (fig. 2.), conveying it with the thumb, by rolling it upon the fingers the length of the line B C, moving the middle finger D to a distance, and placing the ball at the junction of the fingers C (fig. 3.); but in this part of the operation it is necessary to hold the ball rather tight, lest it should fall down and discover the secret. In order to make it appear, we must bring back the ball the same way from C to D; and every time that it is conjured, or made to disappear, as well as when it is made to reappear, the palm of the hand should be turned from the side of the table on which the operator is playing.

While this part of the trick is performing, the operator must let the spectators know that the ball has been passed under a cup, or into another hand; and in the first case he makes a motion with the hand (as represented fig. 4.) indicating that he had thrown it through the cup; at which time also he conjures it, approaching the two fingers of the right hand towards the left, which last he holds open, and makes a motion as if the ball had been placed there, shutting the left hand instantly. It is also to be supposed, at every time when a ball seems to be placed below a cup, that it has been held in the left hand; and when he raises the cup with the right hand as in fig. 5. the left hand must be opened, and he rests the ball at that instant upon the hollow of the other, sliding it along the fingers.

At the time the ball is to be put secretly under the cup, it should lie between the two fingers of the right hand (fig. 5.) With this hand he raises the cup; and placing it on the table, lets go the ball, which, according to its position in fig. 6. should be found near the edge of the cup when taken into the hand. If he would put the ball secretly between the two cups, it must be let go by jerking it towards the bottom of the cup which he holds, and places it very quickly on that in which the ball is to be found. When the ball is in this situation, if the operator should want it to disappear, he must raise the two cups with his right hand, and draw out hastily that under which the ball is placed; at the same instant lowering with his left hand the other cup, under which he places it.

In speaking of the tricks which follow, terms are made use of which explain whether what is said be feigned or true; of which terms explanations are given, and numbers adapted to the explanations of the different operations which follow.

I. *To put the ball under the cup*: Really done, with the fingers of the right or left hand.

II. *To put the ball under the cup, or in the hand.*—

A feigned conjuration; pretending to shut it up in the left hand, which is afterwards opened, in order to have it supposed that the ball is under the cup or elsewhere. See fig. 3.

III. *To pass the ball under the cup.*—The ball supposed to be conjured is to be really introduced.

IV. *To pass the ball between the cups*, is likewise real.

V. *To make the ball which is between the cups disappear.*—This is likewise real; and performed, as has already been described, by drawing back with much precipitation and dexterity the cup on which it is placed, and lowering upon the table that which is above, and under which the ball must of consequence be found.

VI. *To take the ball.* Real.—It is taken between two fingers of the right hand, and shown before conjuration.

VII. *To take away the ball from under the cup.* This is done by taking it away in the sight of the spectators.

VIII. *To draw the ball.* Feigned; or by pretending to draw it from the end of the rod, from the cup, or any other place, by bringing into the fingers the ball which was secreted.

IX. *To throw the ball through the cup*, is to conjure it in pretending to throw it.

X. *To raise up the cups.* This is really done in three ways; viz. either with the right hand, the rod, or the left hand. The first is when the ball is to be secretly inserted in returning the cup to its place. In the second, the rod is to be put on the tops of the cups to turn them over again, so that the balls may be shown which were to be passed into them. The third is when the operator intends to show that no balls are in the cups, or that there are some.

XI. *To cover a cup.* This is really done, by taking with the right hand that which is to be put over another, and introducing at the same time a ball between the two.

XII. *To recover a cup.* It is done by taking with the left hand the cup to be put over or above, without introducing any thing into it.

The PERFORMANCES.

I. *To put a ball under each cup, and take it out again.*

Having placed on the table the three cups and little rod, as shown in fig. 1. the performer must begin his manoeuvres, by endeavouring to amuse the spectators with some kind of entertaining discourse. Nothing can be more *a-propos* than the origin of the little rod and cups; and he must be very assiduous in this sort of discourse to take off the eyes of the spectators as much as possible. The following may be a specimen of the manner in which he ought to address his audience: "There are many persons who meddle with the play of the cups and balls, and yet know nothing about them. This is by no means extraordinary: even I who now play before you, pretend to know but little. Nay, some time ago, I was such a novice as to think of playing before a numerous assembly with glass cups, in which you may guess I did not meet with great applause. I do not indeed practise this method but before such as are actually blind; neither do I play with China cups, lest, through awkwardness in feigning to break their handles, I should do so in reality. These are the cups which answer my purposes. They are made of such metal as the alchemists attributed to Jupiter.

Performances.

Jupiter and Mars, or, to speak more properly and intelligibly, they are made of tin. Behold and examine these cups (*showing the cups to the company, and putting them on the table*). All my science, and it is in that in which it is admirable, consists in deceiving the eyes, and passing the balls into the cups without your perceiving how it is done. I advise you therefore to pay no attention to my words, but to examine well my hands, (*showing his hands*). If there is in this company any person who has the misfortune to use spectacles, he may retire; but the most clear-sighted will see nothing there.

"Here is the little Jacob's rod (*showing the rod with the left hand*); that is to say, the magazine from which I take all my balls (*taking secretly with the other hand a ball from his bag, which he hides between his fingers*). There is not one in England so well furnished. Observe, that the more I take from it the more remain: I draw from it (VIII.) this ball, (*showing it, and placing it upon the table, (I.)* Observe that there is nothing under the cups (*showing the inside of the cups*), and that I have no other ball in my hands, (*showing his hands*). I take (VI.) this ball: I put it (II.) under this first cup. I draw (VIII.) a second ball from my little rod, and I put it under this second cup (*actually done*). It is proper here to tell you, that the generality of those who play the cups only feign to put the balls there; but I do not deceive you, and I actually put them there. (*He raises the cup B, and taking the ball which he has put under it into his right-hand fingers, shows it to the company*). I return it (II.) under the same cup. I take (VIII.) this third, and put it (II.) in the same way under this last cup. You are about to say that this is not very extraordinary, and that you could do it as well yourselves. I agree with you; but the difficulty consists in taking out these balls again through the cups, (*striking the first cup with the rod*). I take (VIII.) this first ball (*showing it*): I put it (II.) into my hand, and send it to Constantinople, (*he opens the left hand*). I take (VIII.) this, (*striking with the rod on the second cup*). I put it (II.) into my hand, and I send it to the East Indies, (*opening his left hand*). I take (VIII.) the last, and I put it (I.) on the table: Observe that there are no more under any of these cups, (*turning down the cups with the rod*).

2. *With the single ball remaining on the table, to pass a ball through each of the cups, and to take it off from the same.* "I return the cups to their places, and take (VI.) this ball, and I put it under this first cup. I take it back again (VIII.): observe that it is not there now, (*raising (X.) the cup with the left hand*). I put it (II.) under this other cup: I take it out again (VIII.) in the same manner, (*raising (X.) the cup*). I put it (II.) under the last cup, and take it out again, (VIII.) (*raising the last cup with the left hand, and placing the ball on the table*).

3. *With the single ball remaining on the table, to take away a ball through two or three cups.*—In this performance the three cups are distinguished by A, B, C, as in fig. 1.

"I never have any ball secreted in my hands, as the greatest part of them who play the cups and balls have. (*showing his hands*). I take (VI.) this ball, and

I put it (II.) under this cup B. I cover it (XII.) with this cup C, and I take again (VIII.) this ball through the two cups (*shows the ball in placing it on the table, returns afterwards the cup C to its place, and raises (X.) the cup B to show that there is nothing there*). I take again (VI.) this same ball. I put it (II.) under the same cup B: I cover it (XII.) with the two other cups C and A; and I take out (VIII.) this ball through the three cups (*showing it and placing it on the table*).

4. *With the single ball remaining on the table, to pass the same ball from cup to cup.*—"I now beg of you to pay every possible attention, and you will very distinctly see this ball pass from one cup into the other (*putting the cups at a greater distance from each other*). I take (VI.) this ball, and I put it (II.) under the cup C: there is nothing under this cup B (*raising it, introducing the ball, and taking the rod in his hand*). I command that which I have put under the cup C to pass under that B. You see it (*moving the end of the rod from one cup to the other, as if he followed the ball*): observe that it is passed (*raising the cup with his left hand, and taking the ball with his right, shows it to the company*). I return it (II.) under this cup B; there is nothing under this A (*raising the cup with his right hand, and introducing the ball there*). I am going to pass it under this last cup A. Look well; come near; (*making as if in seeing it he would show with the end of the rod the path that it took*). You did not see it pass? I am not much surprised: I did not see it myself; however, here it is under the cup (*raising the cup A, and placing it on the table*).

5. *With the same ball remaining on the table. The cups being covered, to pass a ball from one into the other, without raising them up.*—"I was very right in telling you, that the most clear-sighted would not see very much; but, for your comfort, here is a trick in which you will see nothing at all. I take this ball, and put it (II.) under this cup B. I cover it (XI.) with the two other cups (*taking one in each hand, and introducing the ball upon the cup B*): pay attention, that there is absolutely nothing in my hands (*showing them*). I command this ball to mount up upon the first cup (*taking up the two cups, and putting them in their places, he shows that it has mounted*). I return (II.) this ball under the same cup B. I cover it as before (*covers it in taking a cup in each hand, and introducing a ball between the second and third cup*). I take (*the only ball with which he plays being under the third cup, he cannot show it, but acts as if he had taken it out, and put it into the fingers of his left hand, which he holds in the air, in conducting the hand from one side to the other*). I take the ball, which is under these three cups; and I throw it through the first cup (*feigning to throw it*): observe that I have not conjured the ball, having nothing in my hands (*showing them*); it is passed; however, (*raising the first cup with the left hand, putting the ball upon the table and the cups in their places*).

6. *With the single ball remaining on the table, to pass a ball through the table and two cups.*—"You are undoubtedly surprised, that, having but a single ball, I have been able, after having shown it to you, to pass it under this cup without raising it; but let not that astonish you: I have secrets much more wonderful. I convey,

convey, for example, the steeple of one village into another: I have sympathetic quadrants, with which a conversation may be held at 200 leagues distance: I have a flying chariot which can conduct me to Rome in three days. I will show all these curiosities as soon as my machines are entirely completed; that is to say, in a few centuries: but to amuse you till the arrival of all these prodigies, I now continue the entertainment of the cups and balls. I put (II.) this ball under the cup A. I take it away again (VIII.) (*showing it, and feigning to put it into his left-hand fingers*). I cover (XI.) this cup with the two others B and C (*introducing the ball between these two cups, using always the right hand, and feigning still to hold it in his left*), and I pass this same ball through the table and the two cups (*putting the left hand under the table*.) There it is passed (*raising the first cup*.)

7. *With the same ball. A ball having been put under a cup, to take it away again, and to pass it between two others.*—"Here is again a very pretty trick: I take this ball, and I put it (II.) under this cup A. Observe, that there is nothing under the others (*showing them and introducing the ball under the cup C*), nor in my hands: I take this ball, which is under the cup A (*feigning to take it out, and raising the bottom of the cup so that the spectators may not attend to his fingers*). I cover this cup C with the two others A and B, and I throw it (IX.) through these two cups (*raising them, and showing that the ball is passed there*).

8. *With this single ball and a shilling; to pass a ball from one hand into the other.*—"I take this ball; I put it (II.) into this hand, and I put into the other the shilling. In which hand do you think the ball is? or in which do you think the shilling may be?" (*Whatever answer the spectator makes, the performer shows him that he is mistaken, and that the whole is in the right hand; and this truth serves as a pretence to take a ball from the bag in putting the shilling back into it*.)

The performer may, however, without breaking the connection of these operations, dispense with this trick, and feign to drop the ball he plays with, which affords him a pretence for taking another.

9. *With the ball remaining on the table, and that which is secretly taken out of the bag; to pass under a cup the two balls put under the others.*—The operator goes on with his discourse: "In order to give you still farther amusement, I take this ball and cut it in two (*taking it in his left hand, and holding the rod with his right; feigning to cut it, he puts afterwards the rod on the table, and brings back to his fingers ends the ball which he took out of the bag*). Nothing is so commodious as to be able in this manner to multiply the balls. When I am in want of money, I cut them again and again, until I may have had five or six bushels (*placing the two balls on the table*). Observe that there is nothing under this cup A. I put there (II.) this first ball: there is nothing more under the two other cups (*introducing the ball under the cup B*). I take this second ball, and I put it (II.) under the cup C: there is now a ball under these two cups A and C. I take away (VIII.) from this cup C this ball, and I throw it (IX.) thro' the middle cup B: observe that it is passed (*raising the cup B, and introducing there the second ball*). I command this, which is under the other cup A, to pass under

the same cup B (*raising this cup, and showing that they are both there, and placing them upon the table*).

10. *With the two balls which are upon the table. Two balls having been put under the same cup, to pass them under two others.*—"When I was at college, the tutor told me, it was necessary to know how to do my exercise in two ways. I have just now passed these two balls into the middle cup; I am now to make them go out; the one is not more difficult for me than the other. I take therefore these two balls, and place them under this cup B (*putting one ball under the cup, and conjuring the other*); observe that there is nothing under the cup A, nor under the other C (*introducing into this last the ball that he conjured*): I command one of these balls, which are under the middle cup, to pass under the one or the other of these two cups A and C. Behold it already gone (*raising the cup B to show that there is no more than a single ball; and taking, with the right hand, the ball which is underneath, he shows it, and puts it* (II.) *under the same cup B*). Let us see into which cup it has passed (*raising immediately the cup A, and introducing the ball that he took from the cup B*): here it is under this cup C (*raising the cup*;) I command the other ball to pass under this cup A (*he raises it, and shows that it passed there*)." This trick is frequently done with three balls, but it appears much more extraordinary with two.

11. *With these two balls, a third which he shows, and a fourth secreted in his hands; to pass three balls under the same cup.*—"All this is but a trifle; I am going to show you another trick with three balls (*taking out of the bag a third ball, and placing it on the table, secreted at the same time a fourth in his hand*). Observe that there is nothing under any of these cups (*raising them, and introducing them under the cup C*). I take this first ball, and throw it (IX.) through this cup C. Observe that it is passed (*raising (X.) the cup with the right hand*); I take this second ball, and throw it (XI.) through the same cup. There it is passed (*raising (X.) again the cup*); I take the third, and I make it pass the same (*raising (X.) the cup, and showing that these are passed under all the three*).

12. *With the three balls remaining under the cup, and that held secretly in the hand; to pass two balls from one cup into another, at the choice of a person, without touching any of the cups.*—"Here is another in which I have never been able to comprehend any thing; but it will astonish you much (*raising the cup C, and taking away the three balls from their places, he puts them under each cup, and in raising the cup C introduces there the fourth ball which he held secretly in his hand*). I take this ball (*that which is under the cup B*), and I put it (II.) under the same cup. I take this (*the ball from the cup A*), and I place it (I.) under the same cup (*putting there also that which was secreted in his hand*): I take this last, and I throw it (IX.) through the cup C; and to show that I do not deceive you, behold it passed (*raising (X.) the cup that has been fixed upon, which suppose to be C, and showing that there are two*). I take again these two balls, and put them under the cup C (*putting really but one*): observe that there is no more under this cup B (*introducing there the ball that he had just taken away, and showing that he had no other in his hand*); I command one of these balls, which are under this cup C,

to

to go and join that which is under this A. Observe that it is passed. There! (raising the cup C, and returning the two balls under the same cup, and raising C, in order to show that there is but a single one; and he places it again under the same cup: he does not raise the cup B under which a ball remains).

13. With the three balls that were placed upon cups, and that which remains hidden under the middle cup; to pass under the same cup the balls put under the others.—“I take this ball (that which is upon the cup C), and I put it (II.) under the same cup C; and I order it to pass into this cup B: there it is passed (in raising this cup he introduces a third ball). I take this third ball, and put it (II.) under this cup C; and I command it to pass into the cup B along the table, and in the sight of the spectators (taking the rod in his left hand, feigning to show the way that it passed between the two cups). You did not see it then? Here it is (He draws it (VIII.) from the end of the rod, which appears to show it). Go quickly (throwing it (IX.) through the cup B; and showing that they are all three there, and that there is nothing under the two others; placing afterwards three of the balls on the table, and secreting the fourth in his hand).

14. With the three balls remaining upon the table, and that which is held secretly in his hand.—Multiplication of the balls.

For this trick there must be a tin vase (see fig. 8.), at the bottom of which there must be contrived a false bottom A, which will fall down at pleasure; that is to say, in reversing it upon the table, by means of a small trigger placed at the base of one of the handles B, introducing previously between the false and true bottoms a dozen of balls. The operator goes on with his discourse.

“If any of the company believe in witches, I would give my advice that they should believe in them no longer; as what I am about to do is much more surprising than the feats of any witch.—I put (I.) these three balls under the three cups you see on the table: I take away (VII.) this first ball (that which is under the cup C), and I put it (II.) into this vase. I take this, and I also put it (II.) into the vase. I take away (VII.) this third (that which is under the cup A), and I throw it (II.) the same way”. (Every time that he raises one of the cups to take away the ball, he introduces that which always remains secreted in his right hand; and this he repeats, constantly taking out one ball and putting in another, till he has introduced all the twelve balls; after which he resumes his discourse.) “You imagine, perhaps, that I always make use of the same balls; but, to prove the contrary, here they are, (inverting the vase so as to turn them all out).

In this trick, if the vase be well made, the inside may be shown, and it may even be previously inverted; in which case, it will not be supposed that any balls have been put into it.

15. With the three balls remaining under each of the cups, and that which is hidden in his hand; to pass one ball under each of the three cups.

“I put all these balls into my pocket. I take (VI.) this (the one secreted in his hand), and I make it pass through the table under this first cup C, (conjuring it). I take another from my bag (showing the same ball). I make it pass in the same manner through

this B, (conjures it again). I take a third (showing still the same), and I make it pass under this last cup A (conjuring it). Here are all the three passed (turning over the cups, and in taking them up again introduces the ball that he has in his hand under the cup B, and puts the three balls upon the three cups.

16. With the three balls put upon each cup, and that which was introduced under the middle cup; to draw two balls through the same cup.—“There will be wanted now only two balls.” Here the operator takes that which is under the cup C, and puts it (II.) into his bag. He takes in the fingers of his right hand the ball which is on the cup B, showing it; and with the other covers the cup B, with that passing (IV.) there the ball which he feigned to put into his bag. He then takes the ball which is under the cup A with the right hand; and showing a ball in each hand, tells the company that he put them (II.) under the cup A; though he actually puts but one, which he holds in his left. He then draws one of these balls through the same cup A, showing it, and placing it upon the cup C. He then raises the cup A, and takes the ball which is under it with his right hand, adding, “There remains but one more.” While pronouncing these words, he puts it (II.) under the cup. “I take (adds he) the other ball,” (raising the cup, and showing that it is there no longer); then, taking one of the two balls which seemed to remain alone, he put it (II.) into his bag, saying, “I return this into my bag.”

17. With a ball which is hidden under the middle cup, another hidden under that which covers it, that which remains in the hand, and a fourth which is upon the table; to pass the same ball successively through the three cups.—The preceding trick was only on purpose to prepare the spectators for this; as they now imagine that the performer played only with one ball. He may now address them in the following manner:

“I am now going to make a very pretty trick with this single ball. I forgot to show it to you at the beginning: I cover (XI.) these cups (putting the cup A upon C and B). I take (VI.) this ball, and I throw it (IX.) through the first cup;” (raising (X.) the cup A with the right hand). He then shows that it is passed between C and A; and, putting it in its place, he introduces there that which he has in his hand. “I take (says he) (VI.) this same ball, and I throw it through the other cup C;” and while he says so, he raises (X.) the cup C, showing that it has passed, introducing there that which he has in his hand, and putting it in the place of the former. “I take again (continues he) (VI.) this same ball, and I throw it (IX.) through that last cup B,” (raising (IX.) the cup B.) During which time he takes away the ball from under it with his left hand, then places it on the table, and returns the cup to its place, introducing there the ball which he has in his left hand.

18. With the three balls which are under the cups, that which is on the table, and two which he takes from the bag; to pass under a cup the balls put under the two others without raising these last.—The performer may proceed in his discourse in the following manner:

“Let us now return to the order of the entertainment which I have interrupted, and continue to play with three balls.” He now takes two balls from his bag,

bag, by which means he in fact plays with six balls, though he pretends to play only with three. These two balls, together with that which remains on the table, he puts on the top of each cup. "I take (says he) (VI.) this ball, (*that which is on the cup C*). I throw it (IX.) through that cup: there it is passed." He now raises (X.) the cup, shows it; and thus has an opportunity of introducing the ball which he has in his hand. "I take (VI.) this (*the ball which is under the cup B*), and throw it (IX.) through the cup B." At this he raises the cup with his left hand, showing that it has passed, and covering it again. "I take again (VIII.) this ball from the same cup, and throw it (IX.) through that C: observe that it is passed." Then, raising up (X.) the cup C, showing that there are then two there, he introduces other two which he had in his hand. "I take (says he) (IV.) this ball (*that which is under the cup A*), and I throw it (IX.) through the same cup A. There! it is passed," (*raising the cup C*); after which he shows the three balls, and introduces there that which was in his hand, putting the three balls upon the table.

19. *With the three balls which remain under the cups, and the three others which remain upon the table; to pass separately the three balls through each cup.*—In this manœuvre the performer puts again the three balls which are upon the table upon the top of each cup. He takes that which is on the cup C, and throws it (IX.) through the same cup; and while he announces this to the company, he raises (X.) the cup: taking away (VIII.) the ball, showing that it has passed, introducing there that which was in his hand, and putting the same ball upon the same cup. He then takes that which is upon the cup B, and throws it (IX.) through the same cup; shows that it is passed, takes it away (VII.), and introduces the ball that was in his hand under this cup, putting it in like manner on the cup. Then he takes the ball which is on the cup A, and throws it (IX.) through the same cup A. As he announces its passage he raises the cup, taking away (VII.) and showing the ball; introducing in the same manner that which was in his hand; putting this first at the top of the cup A, and then shows that it is not in his hand, and that he has but three balls.

20. *With the three balls remaining upon the table, and those which are under each cup. Having put the balls into the bag, to make them return under the cups.*—"I take these three balls, and I return them into my bag, (*keeping one in his hand*). Behold to what all is reduced that I had to show you for your amusement. I did know some more very pretty tricks, but I have forgot them. (*Pretending to muse for a moment*): Ah! I still remember two or three very pleasing ones. Come, my little balls! Return under the cups. (*turning over the cups*). See how nimble they are, and obedient at the same time;" (*covering them again with the cups*.)

21. *With the three balls which are under the cups, and that in his hand; to pass the balls through the two cups.*—Here the operator begins with taking away (VII.) the ball which is under the cup C; he covers it with the cup B; and passes (III.) the other ball which he has in his right hand between the two cups. He then takes (VI.) the ball which he had in his left hand,

and throws it (IX.) between the two cups B and C. In announcing its passage he raises the cup (X.), shows that it is passed, and introduces the ball in his hand. He then takes the ball under the cup B, and throws it (IX.) through the two cups C and B. Announcing to the company its passage, he raises (X.) the cup, and shows that there are two balls, introducing (III.) at the same time the third. He then takes the last ball, viz. that which is under the cup A, covers again with the left hand the two cups B and C, and throws (IX.) the third ball through these two cups. He then announces their passage, raises the two cups, and shows the three balls, covering again the cup C with the two others.

22. *With the three balls which are upon the cup C, and the one in his hand; to take out the three through two cups.*—"I take (says the performer) (VIII.) the first ball, and put it (II.) into my bag. I take (VIII.) in the same manner the second, and I put it also into my bag. I take (VIII.) the third, and I put it into my bag. (*putting in really that which he had in his hand*.) While he desires the spectators to observe that there are no more in the cups, he raises the cup A with the left hand, and, putting it in its place, raises with the right hand the cup C. In supporting it with the cup B, he puts it down quickly, and a little on the side of B, and at the same time places C on the table, under which will be found the three balls, which had not time to separate.

23. *With the three balls remaining under the middle cup, and three others taken out of the bag; to pass, in one action, three balls through a cup.*—This trick is begun by the performer taking three balls from his bag, and putting them on the top of the cup B, which he covers with the cup A. Ordering them to disappear and to pass under the cup C, he takes away very suddenly with the left hand the cup B, as is done in the preceding trick, leaving in the middle of the play the cup C, under which the balls are found. Taking them then away, and replacing them on the same cup, he makes them return again in the same manner under the cup C. At last he takes the three balls, and putting them in his bag, pretends to pass them through the table under the cup where the others were. He then returns two or three of these last balls into his bag, and takes two white balls, which he puts upon the table.

24. *With the black ball remaining on the table, two other white balls, and a black one which he holds secretly in his hand; to pass three balls from one cup into another.*

N. B. To make the balls white, they are rubbed with a little chalk instead of being blackened with the candle.

"Let us now (says the operator) have a trick to prove that I do not conjure the balls. There is nothing under this cup C, (*introducing the black ball that was in his hand*). There is no great thing under this B. I place there these three balls, (*the three which are upon the table, of which he conjures the white one*). There is nothing more under this third cup A, (*introducing there the white ball*). I order one of these two white balls which are under the cup B, to pass under this A." With these words he raises the cup B; and taking the white ball in the fingers of his left hand, and the black one in those of the right, he shows them,

saying, "Observe that there is but one white one. I put again these two balls under the cup B." While speaking thus he puts the white one under the cup, and conjures the other, while feigning to put it in with that of the left hand. He then announces its passage; and while he does so, raises the cup A, and introduces the black ball. Commanding then the black ball to pass under the cup A, he raises the cup B, takes in his right-hand fingers the ball which is there, and shows it. "I put it again (says he) (II.) under this cup (*conjuring it*); and I show you that it is passed under this A, (*introducing there the white ball*.) I order at last the white ball, which is under this cup B, to pass into this A." While telling the company that it is passed, he raises the cup A, and puts the three balls upon each cup, the black one upon the middle.

25. *With the three balls put at the top of the cups, and that which has been inserted under one of them in the preceding trick; to change the colour of the balls.* The operator goes on with his discourse: "If there is any one here who knows how to play the cups and balls, he will do well to observe, that it is not possible to do this trick by the common method, and with three balls only. However, I have no more, (*showing his hands*). I take this white ball (*that which is upon the cup C*), and I throw it (IX.) through this cup (*the same under which he left a black ball in the preceding trick*). I take this black ball (*with the left-hand fingers*); there is nothing under this cup B, (*introducing there the white ball*). I throw it (IX.) through this cup B, (*taking again the ball in his right-hand fingers*). I take this other white ball, (*with his left-hand fingers*). There is nothing under this cup A, (*introducing the black ball*): I throw it (IX.) through the cup A, (*taking it again into his right-hand fingers to conjure it*). Observe that they have all changed their colour," (*covering each of them with their cups*).

26. *With the three balls which are left under the cups, two white balls, and a black one that he took trick by trick from his bag; to change the sizes of the balls.*—In performing this trick the operator takes away the white ball which is under the cup C with his left-hand fingers, and, raising the cup with his right, introduces there a white ball which he took out of his bag. The white ball which he introduces is kept in his hand with the fourth and little finger; and he raises the cup in the same manner as when he introduces the balls. In turning over the cup afterwards, he advances his hand to introduce this ball. These balls should be filled with horse-hair or paper, so that they may be very light, and make no noise. The operator then tells his company, that he makes the ball pass through the table under the same cup; and while he speaks thus, he takes the ball again in his right hand, and while putting his hand under the table, he takes a black ball out of the bag. He then takes away the ball from the cup B, introducing the black one in its stead. He then tells the spectators, that he makes it repass through the table; and, while he tells them so, he takes a white ball; then, while taking away that which is under the cup A, he introduces that ball, making it repass in the same manner through the table, and at last shows them to the company, and covers them with their cups.

27. *With the three balls which are under the cups, two other black balls, and a white one that was taken trick by trick from his bag; to pass the balls from one cup into another.*—"Observe well (says the operator), that there are two white balls under these two cups A and C, and a black one under this (*raising the cups*). I cover again these three balls (*covering each of them with a cup*). I make to pass out through the table the white ball which is under the cup C." Here he takes a white ball from his bag; and in order not to fail, the black and white balls should be in separate pockets. Having taken out the ball, he puts the first into his bag, telling the company that there is now nothing under the cup C; and while he says so, he raises it, holding the ball with his little finger, proceeding in his discourse as follows. "I take away this ball (*that which is under the cup A*), and I pass it through the table under the cup C (*taking a black ball from his bag*)." While the passage of this ball is announced, he raises the cup C to take it away and show it; and introducing there this black ball, "I put again (says he) this other white ball into my bag, and I command the black one which is under the cup B to pass under this. It is no longer under this cup:" and while he says so, he raises the cup B, in supporting with his little finger the ball which remains there. Announcing its passage, he raises the cup C and shows the ball; taking it afterwards into the left-hand, throws it into the air, returning it into his right hand, and feigning to throw it into the air a second time, he lets it fall into his bag; casting his eyes upwards and downwards as if he saw it fall upon the cup B; he raises this cup, and shows it to the spectators, as the former, passed through the cup.

SECT. II. Performances with the Cards.

PREVIOUS to the performances with cards, it will be necessary to explain the method of making the pass; that is, bringing a certain number of cards from the bottom of the pack to the top; as many of these performances depend on that manœuvre.

1. Hold the pack of cards in your right hand, so that the palm of your hand may be under the cards: place the thumb of that hand on one side of the pack, the first, second, and third fingers on the other side, and your little finger between those cards that are to be brought to the top and the rest of the pack. Then place your left hand over the cards, in such a manner that the thumb may be at C (fig. 20, 21.), the fore-finger at A, and the other fingers at B.

Plate
CCLXVI.

The hands and the two parts of the cards being thus disposed, you draw off the lower cards confined by the little finger and the other parts of the right hand, and place them, with an imperceptible motion, on the top of the pack.

It is quite necessary, before you attempt any of the experiments that depend on making the pass, that you can perform it so dexterously that the eye cannot distinguish the motion of your hand; otherwise, instead of deceiving others, you will expose yourself. It is also proper that the cards make no noise, as that will occasion suspicion. This dexterity is not to be attained without some practice,

There is a method of preparing a pack of cards, by inserting

inserting one or more that are a small matter longer or wider than the rest; which preparation will be necessary in several of the following experiments.

The card of divination.

2. HAVE a pack in which there is a long card; open the pack at that part where the long card is, and present the pack to a person in such a manner that he will naturally draw that card. He is then to put it into any part of the pack, and shuffle the cards. You take the pack, and offer the same card in like manner to a second or third person; observing, however, that they do not stand near enough to see the card each other draws. You then draw several cards yourself, among which is the long card, and ask each of the parties if his card be among those cards, and he will naturally say Yes, as they have all drawn the same card. You then shuffle all the cards together, and cutting them at the long card, you hold it before the first person, so that the others may not see it, and tell him that is his card. You then put it again in the pack, and shuffling them a second time, you cut again at the same card, and hold it in like manner to the second person, and so of the rest (A).

If the first person should not draw the long card, each of the parties must draw different cards; when, cutting the pack at the long card, you put those they have drawn over it, and seeming to shuffle the cards indiscriminately, you cut them again at the long card, and show one of them his card. You then shuffle and cut again, in the same manner, and show another person his card, and so on: remembering, that the card drawn by the last person is the first next the long card; and so of the others.

This experiment may be performed without the long card, in the following manner. Let a person draw any card whatever, and replace it in the pack: you then make the pass, and bring that card to the top of the pack, and shuffle them without losing sight of that card. You then offer that card to a second person, that he may draw it, and put it in the middle of the pack. You make the pass and shuffle the cards a second time in the same manner, and offer the card to a third person, and so again to a fourth or fifth, as is more fully explained further on.

The four confederated cards.

3. You let a person draw any four cards from the pack, and tell him to think on one of them. When he returns you the four cards, you dexterously place two of them under the pack and two on the top. Under those at the bottom you place four cards of any sort; and then, taking eight or ten from the bottom-cards, you spread them on the table, and ask the person if the card he fixed on be among them. If he say No, you are sure it is one of the two cards on the top. You then pass those two cards to the bottom, and drawing off the lowest of them, you ask him if that is not his card. If he again say No, you take that card up, and bid him draw his card from the bottom of the pack.

If the person say his card is among those you first drew from the bottom, you must dexterously take up the four cards that you put under them, and, placing

those on the top, let the other two be the bottom-cards of the pack, which you are to draw in the manner before described.

4. AFTER a card has been drawn, you place it under the long card, and by shuffling them dexterously you bring it to top of the pack. Then lay, or throw, the pack on the ground, observing where the top card lies. A handkerchief is then bound over your eyes, in such a manner however that you can see the ground, which may be easily done. A sword is then put into your hand, with which you touch several of the cards, seemingly in great doubt, but never losing sight of the top-card, in which at last you fix the point of the sword, and present it to him who drew it. Two or three cards may be discovered in the same manner, that is, by placing them under the long card, and then bringing them to the top of the pack.

Divination by the sword.

5. You must have in the pack two cards of the same sort, suppose the king of spades. One of these is to be placed next the bottom-card, which may be the seven of hearts, or any other card. The other is to be placed at top. You then shuffle the cards, without displacing those three cards, and show a person that the bottom-card is the seven of hearts. Then drawing that card privately aside with your finger, which you have wetted for that purpose, you take the king of spades from the bottom, which the person supposes to be the seven of hearts, and lay it on the table, telling him to cover it with his hand. You then shuffle the cards again, without displacing the first and last card, and passing the other king of spades at the top to the bottom, you show it to another person. You then draw that privately away; and taking the bottom-card, which will then be the seven of hearts, you lay that on the table, and tell the second person, who believes it to be the king of spades, to cover it with his hand.

The transmutable cards.

You then command the seven of hearts, which is supposed to be under the hand of the first person, to change into the king of spades; and the king of spades, which is supposed to be under the hand of the second person, to change into the seven of hearts; and when the two parties take their hands off, and turn up the cards, they will see, to their no small astonishment, after having so carefully observed the bottom-cards, that your commands are punctually obeyed.

6. TAKE a card, the same as your long card, and rolling it up very close, put it in an egg, by making a hole as small as possible, and which you are to fill up carefully with white wax. You then offer the long card to be drawn; and when it is replaced in the pack you shuffle the cards several times, giving the egg to the person who drew the card, and, while he is breaking it, you privately withdraw the long card, that it may appear, upon examining the cards, to have gone from the pack into the egg. This experiment may be rendered more surprising by having several eggs, in each of which is placed a card of the same sort, and then giving the person the liberty to choose which egg he thinks fit.

The incredible transposition.

5 D 2

This

(A) There is frequently exhibited another experiment, similar to this, which is by making a person draw the long card; then giving him the pack, you tell him to place his card where he pleases and shuffle them, and you will then name his card or cut the pack where it is. You may also tell him to put the pack in his pocket, and you will draw the card; which you may easily do by the touch.

This deception may be still further diversified, by having, as most public performers have, a confederate, who is previously to know the egg in which the card is placed; for you may then break the other eggs, and show that the only one that contains a card is that in which you directed it to be.

To name
several
cards that
two persons
have drawn

7. **DIVIDE** a piquet pack of cards into two parts by a long card. Let the first part contain a quint to a king in clubs and spades, the four-eighths, the ten of diamonds, and ten of hearts; and let the other part contain the two quart majors in hearts and diamonds, the four sevens, and the four nines (B).

Then shuffle the cards, but observe not to displace any of those cards of the last part which are under the long card. You then cut at that card, and leave the pack in two parts. Next, present the first of those parts to a person, and tell him to draw two or three cards, and place the remainder on the table. You present the second parcel in like manner to another. Then having dexterously placed the cards drawn by the first person in the second parcel, and those drawn by the second person in the first parcel, you shuffle the cards, observing to displace none but the upper cards. Then spreading the cards on the table, you name those that each person drew; which you will very easily do, by observing the cards that are changed in each parcel.

The two
convertible
aces.

8. **ON** the ace of spades fix, with soap, a heart, and on the ace of hearts, a spade, in such a manner that they will easily slip off.

Show these two aces to the company; then taking the ace of spades, you desire a person to put his foot upon it, and as you place it on the ground, draw away the spade. In like manner you place the seeming ace of hearts under the foot of another person. You then command the two cards to change their places; and that they obey your command, the two persons, on taking up their cards, will have ocular demonstration. A deception similar to this is sometimes practised with one card, suppose the ace of spades, over which a heart is placed slightly. After showing a person the card, you let him hold one end of it, and you hold the other, and while you amuse him with discourse, you slide off the heart. Then laying the card on the table, you bid him cover it with his hand. You then knock under the table and command the heart to turn into the ace of spades. By deceptions like these, people of little experience and much conceit are frequently deprived of their money, and rendered ridiculous.

The fifteen
thousand
livres.

9. You must be prepared with two cards, like those represented by fig. 22. and with a common ace and a five of diamonds.

The five of diamonds and the two prepared cards are to be disposed as in fig. 23. and holding them in your hand, you say, "A certain Frenchman left 15,000 livres, which are represented by these three cards, to his three sons. The two youngest agreed to leave their 5000, each of them, in the hands of the elder, that he might improve it." While you are telling this story, you lay the 5 on the table, and put the ace in its place, and at the same time artfully

change the position of the other two cards, that the three cards may appear as in fig. 24. You then resume your discourse, "The eldest brother, instead of improving the money, lost it all by gaming, except 3000 livres, as you here see." You then lay the ace on the table, and, taking up the 5, continue your story: "The eldest, sorry for having lost the money, went to the East Indies with these 3000, and brought back 15,000." You then show the cards in the same position as at first, in fig. 22.

To render this deception agreeable, it must be performed with dexterity, and should not be repeated, but the cards immediately put in the pocket; and you should have five common cards in your pocket, ready to show, if any one should desire to see them.

10. **TAKE** a parcel of cards, suppose 40, among which insert two long cards: let the first be, for example, the 15th and the other the 26th, from the top. Seem to shuffle the cards, and then cutting them at the first long card, poise those you have cut off in your hand, and say, "there should be here 15 cards." Cut them again at the second long card, and say, "There are here only 11 cards." Then poising the remainder, you say, "here are 14 cards."

11. *Several different cards being shown to different persons, that each of them may fix on one of those cards; to name that on which each person has fixed.*—There must be as many different cards shown to each person as there are persons to choose: therefore, suppose there are three persons, then to each of them you must show three cards; and telling the first person to retain one in his memory, you lay those three cards down, and show three others to the second person, and so to the third. You then take up the first person's cards, and lay them down one by one, separately, with their faces upward. You next place the second person's card over the first, and in like manner the third person's card over the second's; so that in each parcel there will be one card belonging to each person. You then ask each of them in which parcel his card is; and when you know that, you immediately know which card it is; for the first person's card will always be the first, the second person's the second, and the third person's the third, in that parcel where they each say his card is.

This experiment may be performed with a single person, by letting him fix on three, four, or more cards. In this case you must show him as many parcels as he is to choose cards, and every parcel must consist of that number, out of which he must fix on one; and you then proceed as before, he telling you the parcel that contains each of his cards.

12. **MAKE** a ring large enough to go on the second or third finger (fig. 15.), in which let there be set a ring, large transparent stone, to the bottom of which must be fixed a small piece of black silk, that may be either drawn aside or expanded by turning the stone round. Under the silk is to be the figure of a small card.

Then make a person draw the same sort of card as that at the bottom of the ring, and tell him to burn it in the candle. Having first shown him the ring, you take

To tell the
number of
cards by
them we ght

To name
several
cards on
which dif-
ferent per-
sons have
fixed.

The magic

(B) The cards may be divided in any other manner that is easy to be remembered.

Fig. 1.



Fig. 2.

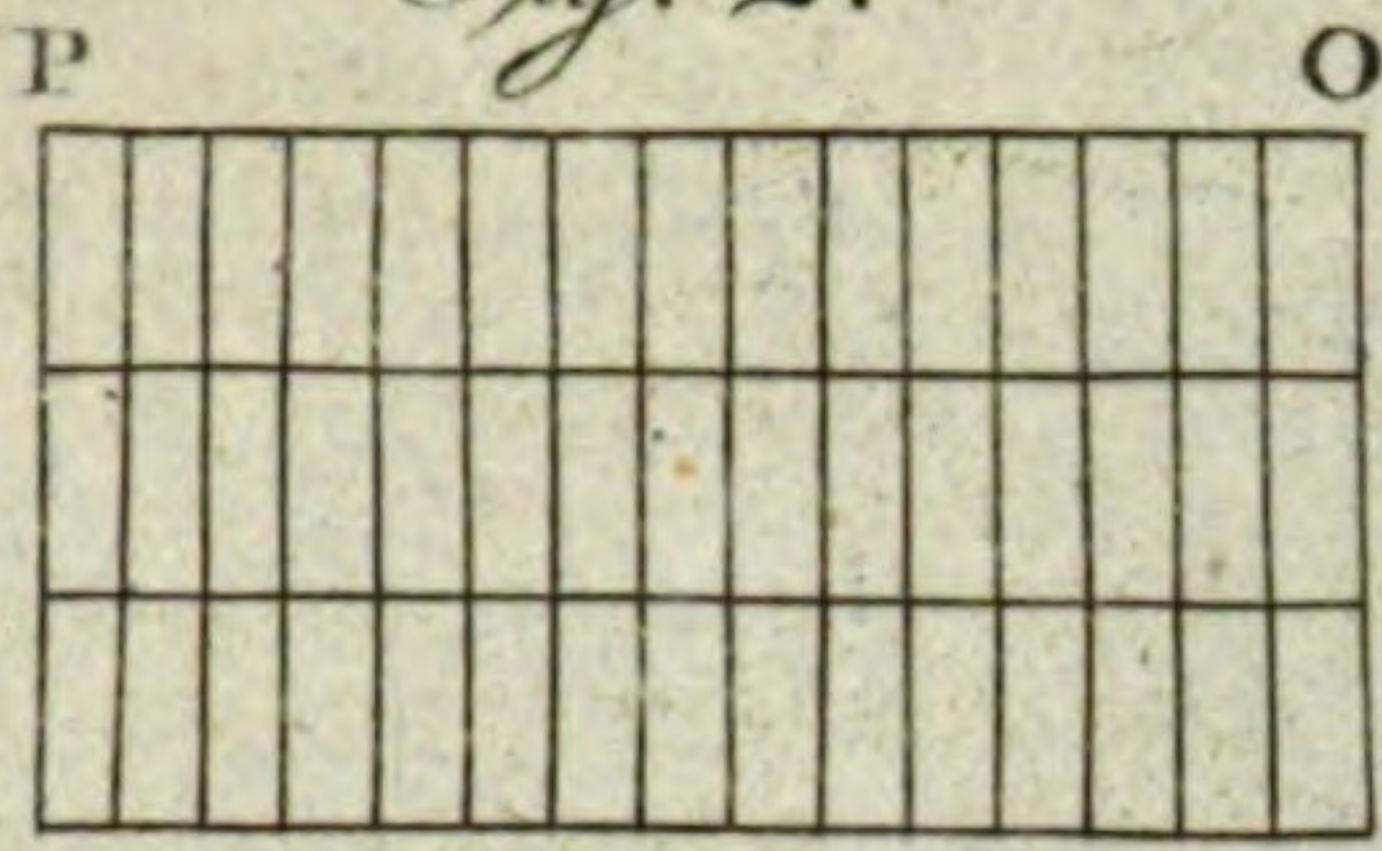


Fig. 3.



Fig. 7.

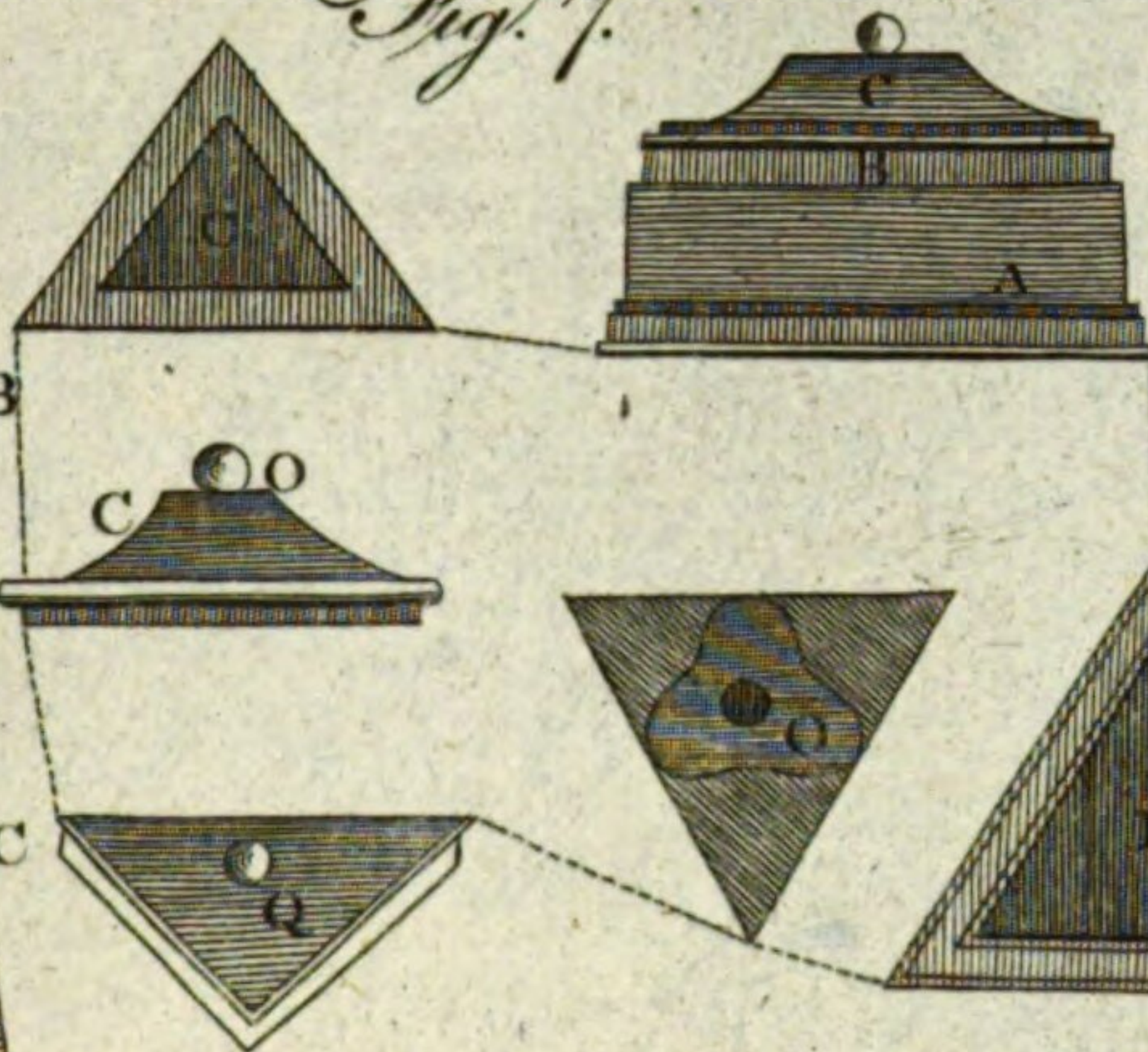


Fig. 4.

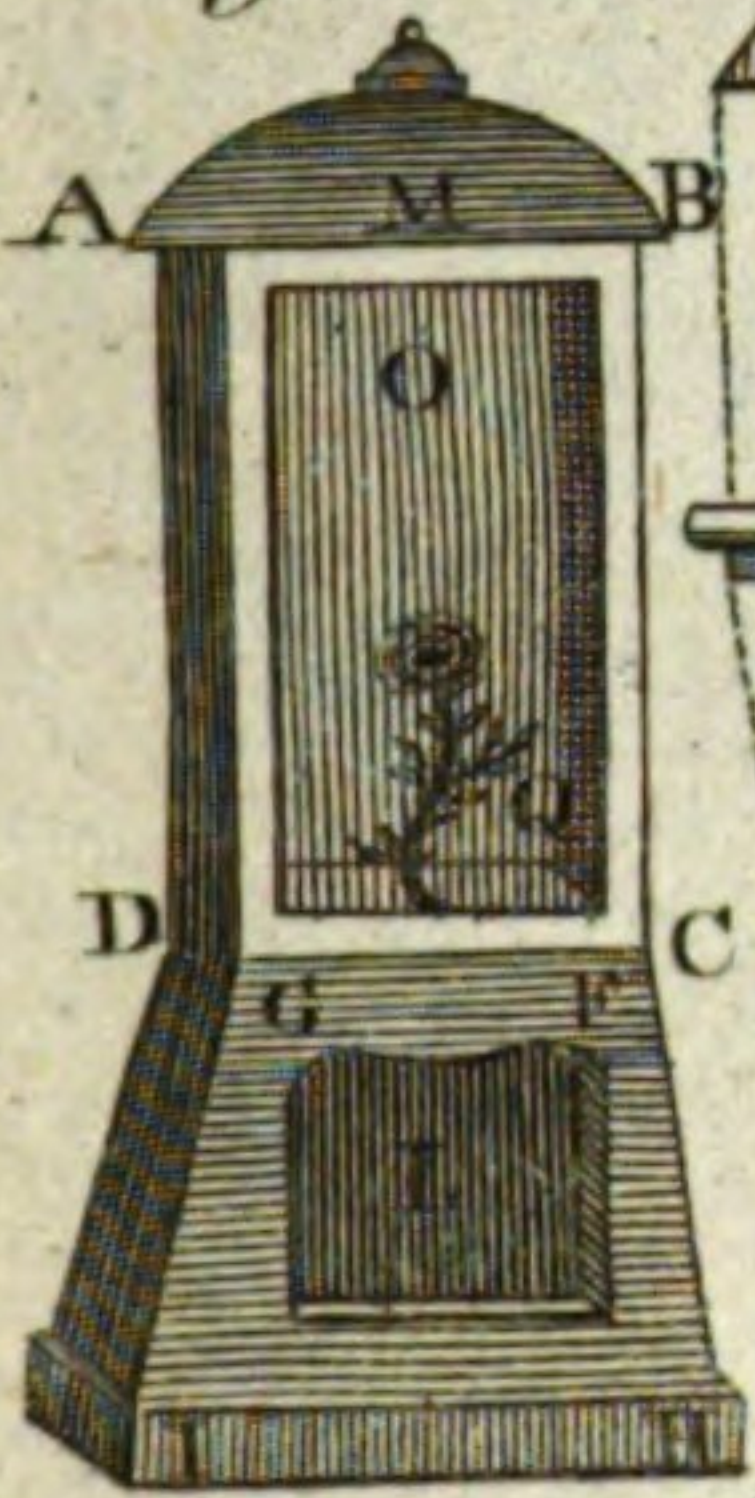


Fig. 8.



Fig. 6.



Fig. 10.



Fig. 9.



Fig. 15.



Fig. 11.



Fig. 12.

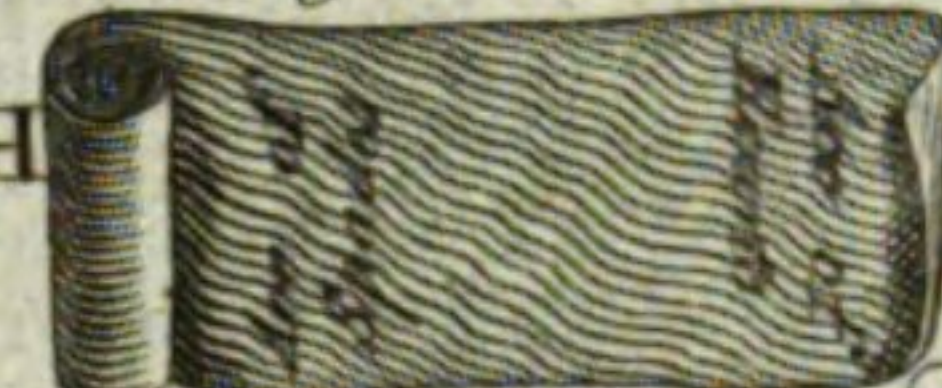


Fig. 14.

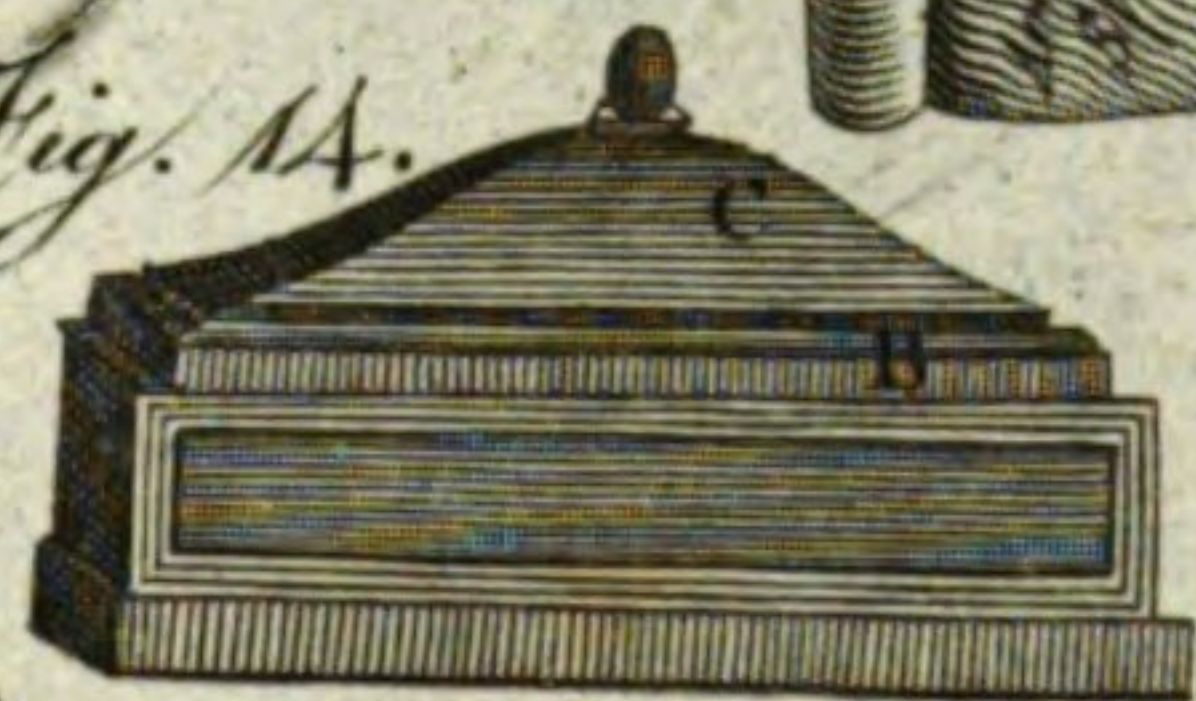


Fig. 13.



Fig. 16.

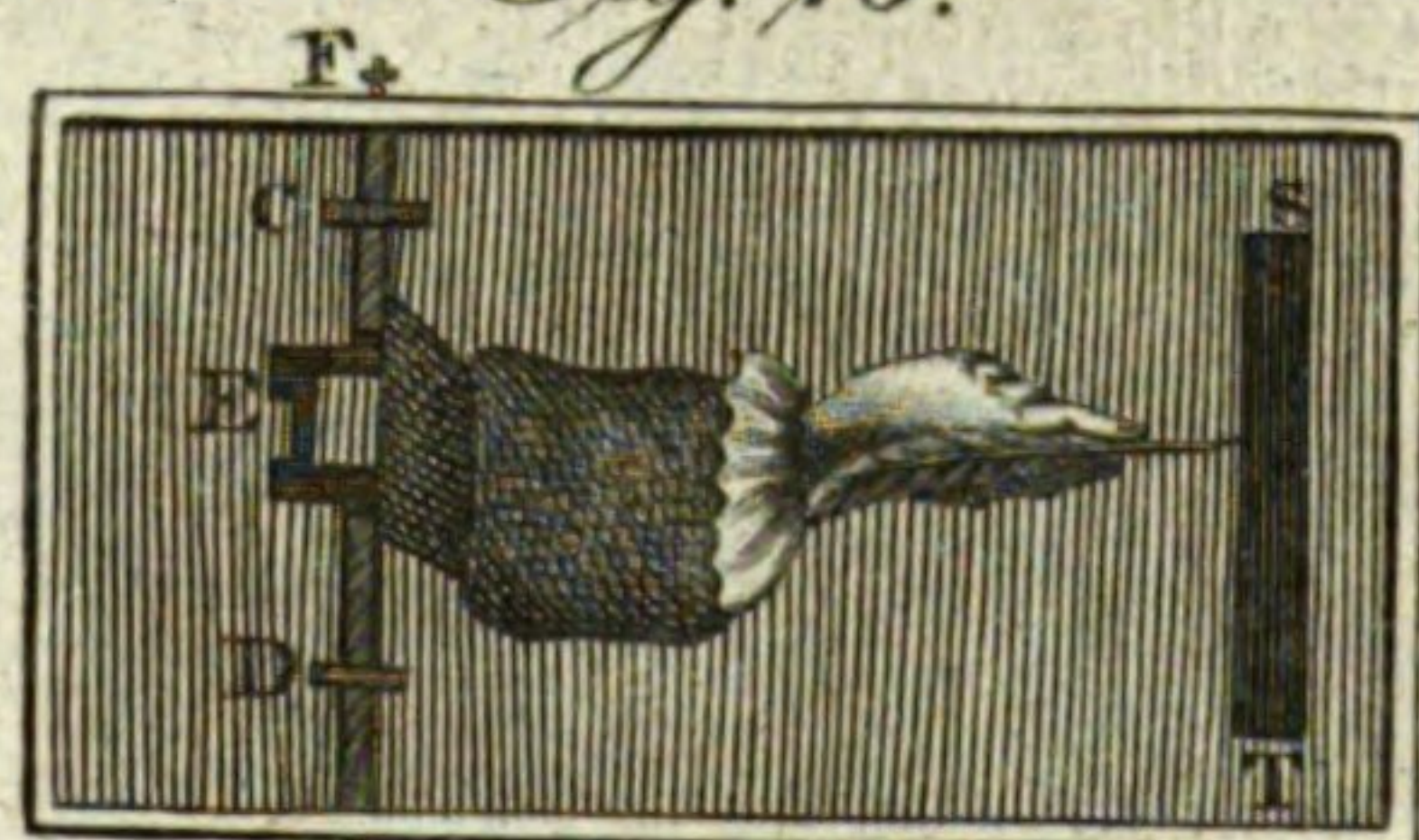


Fig. 17.

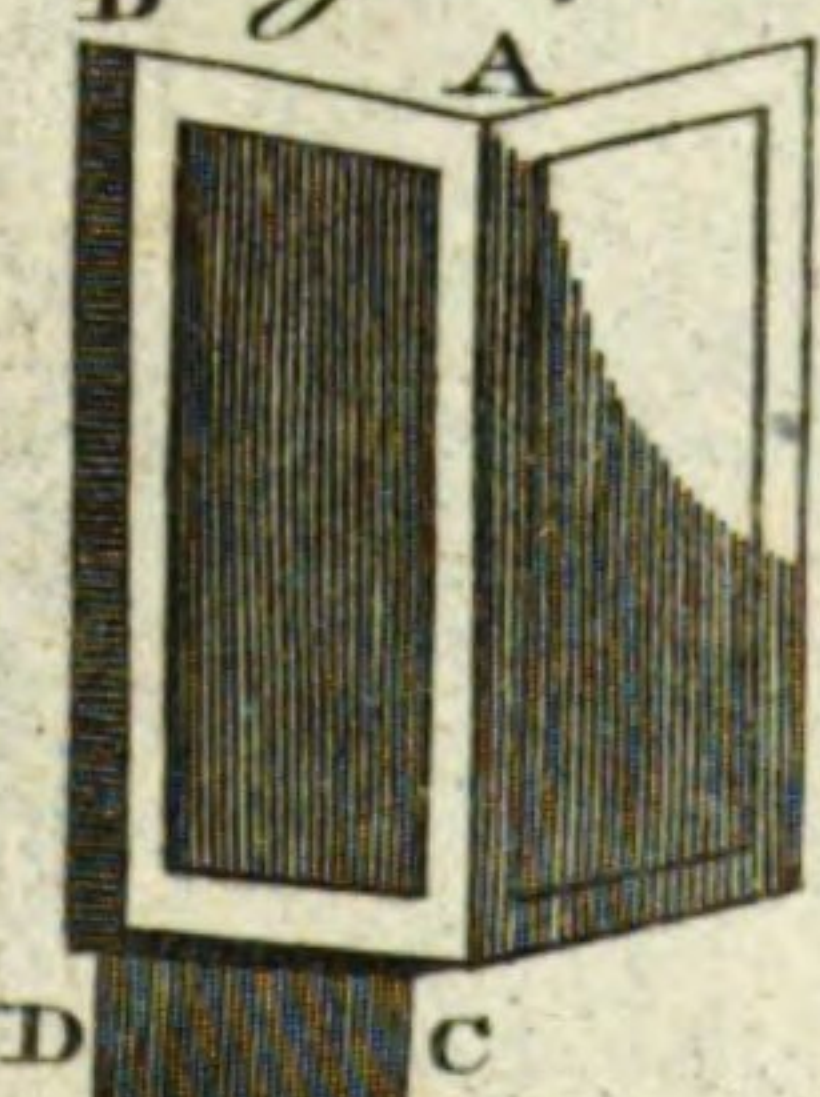


Fig. 5.

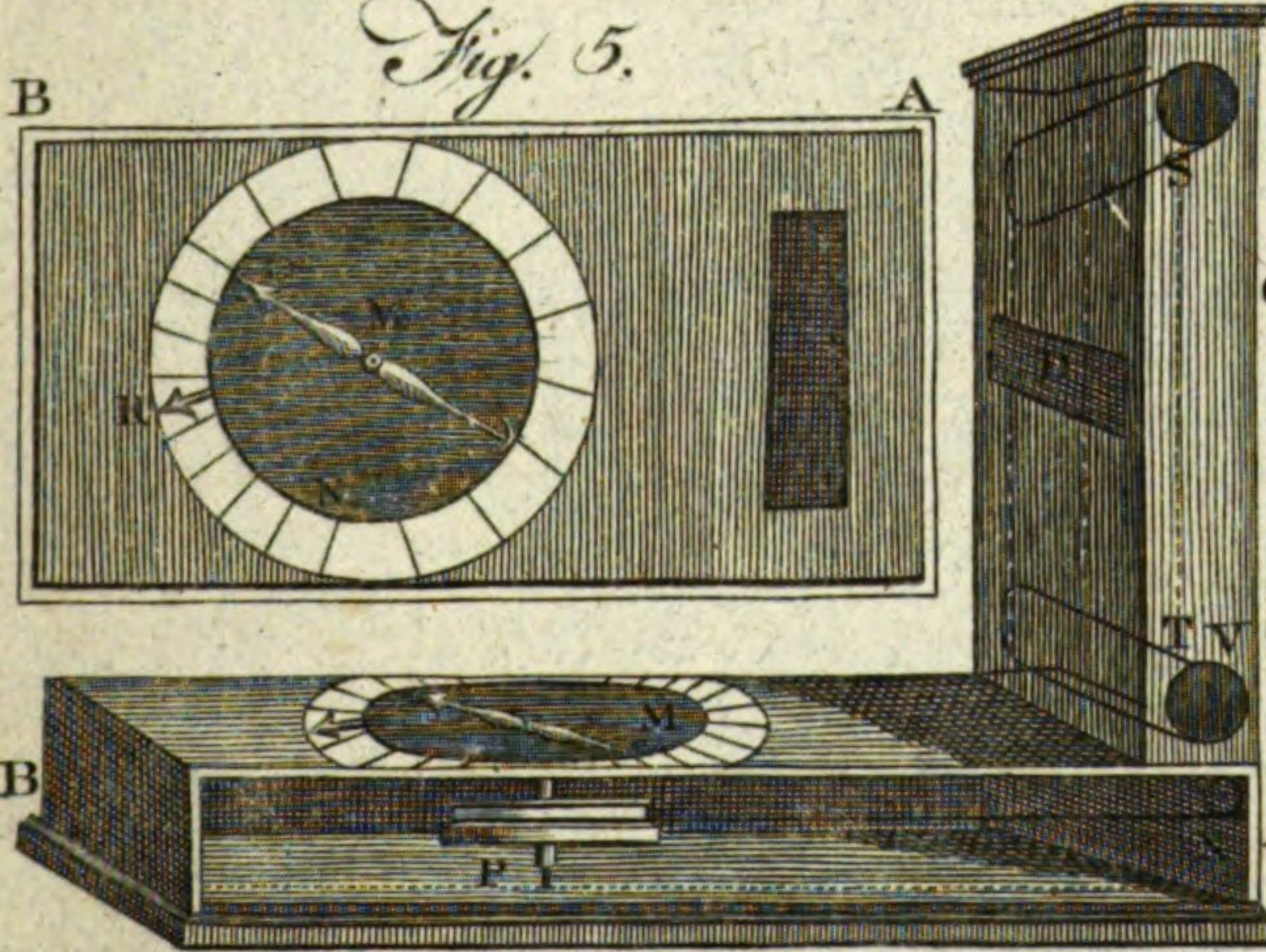


Fig. 19.

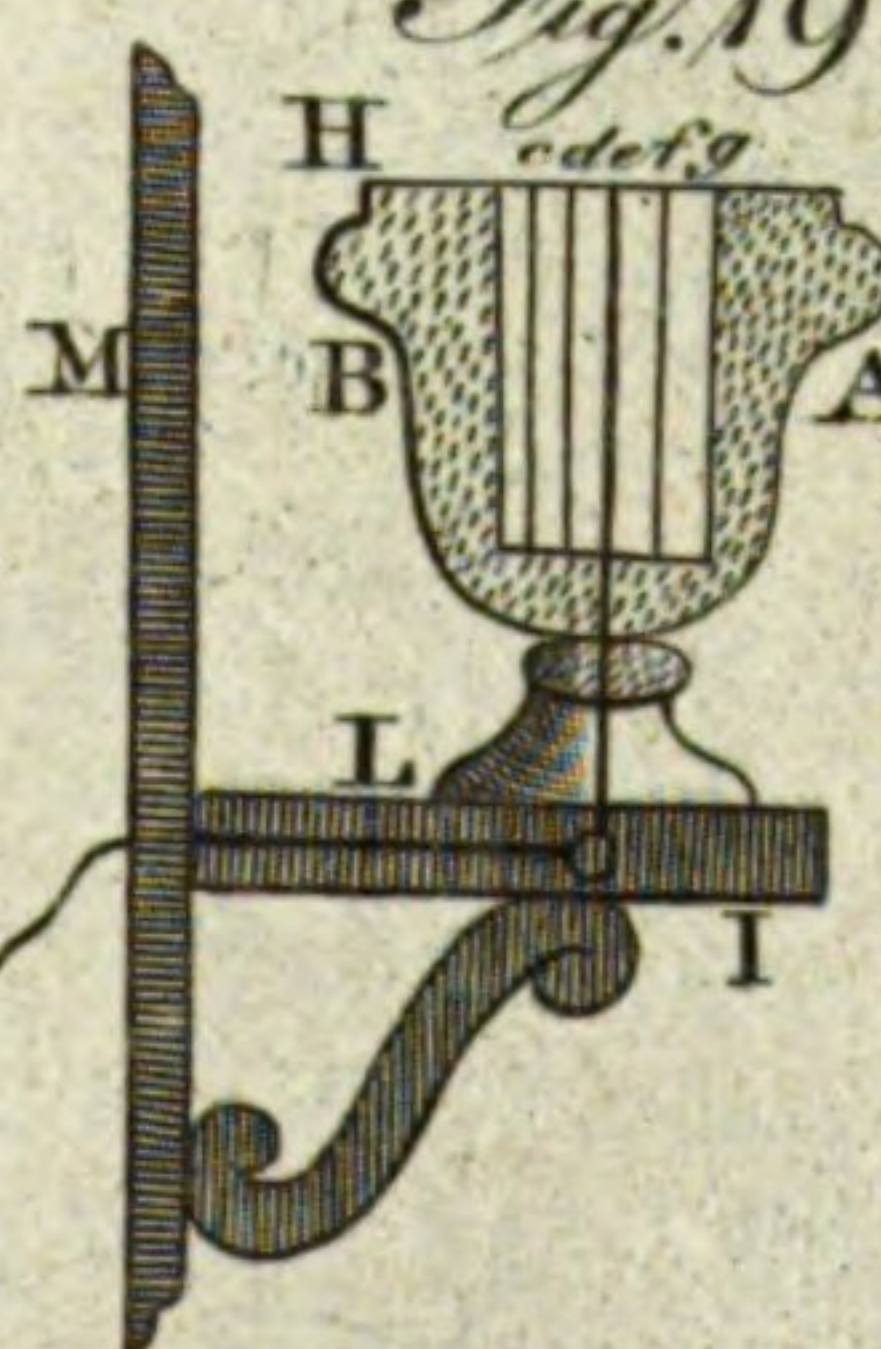


Fig. 18.

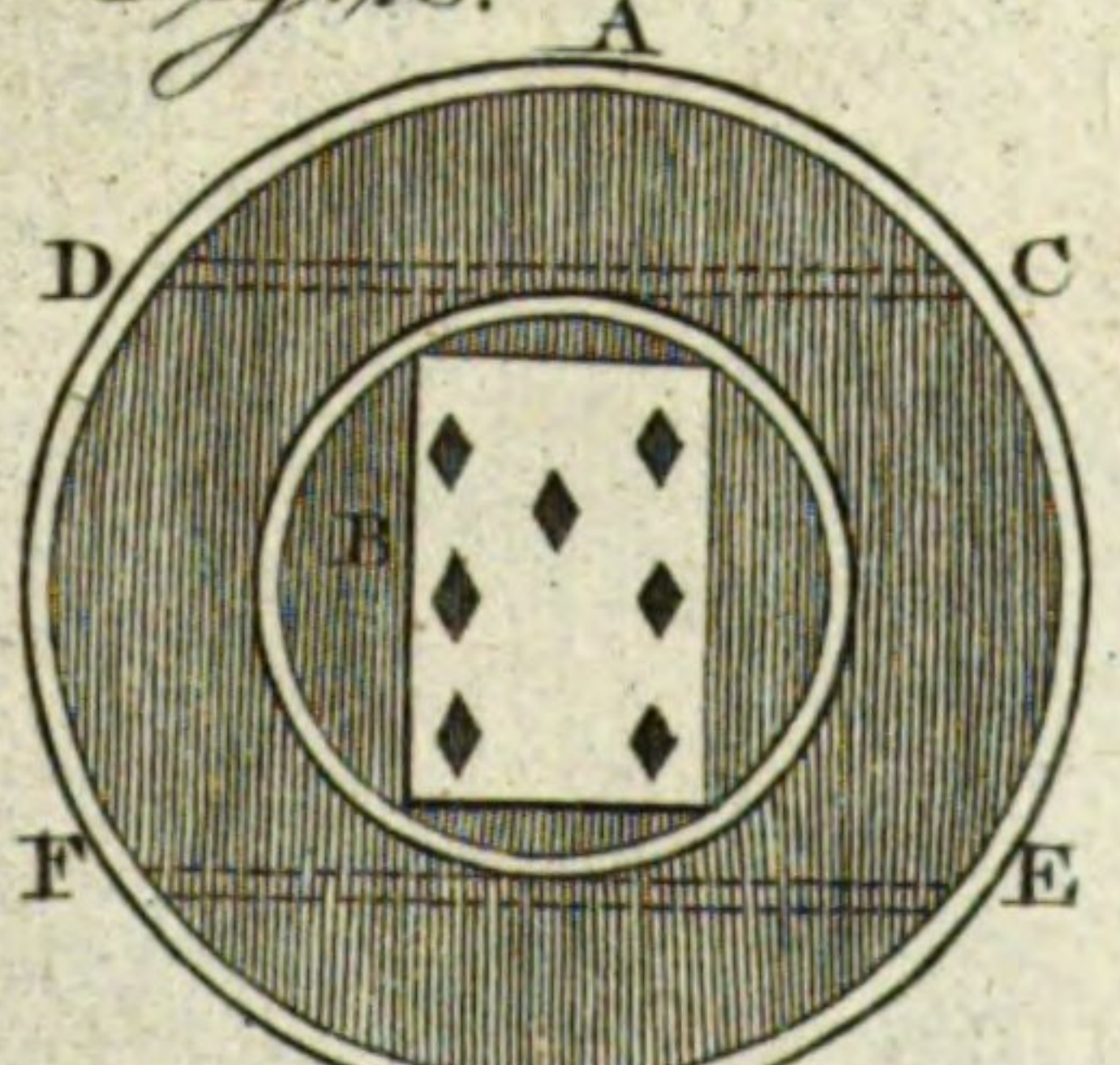


Fig. 23.



Fig. 24.

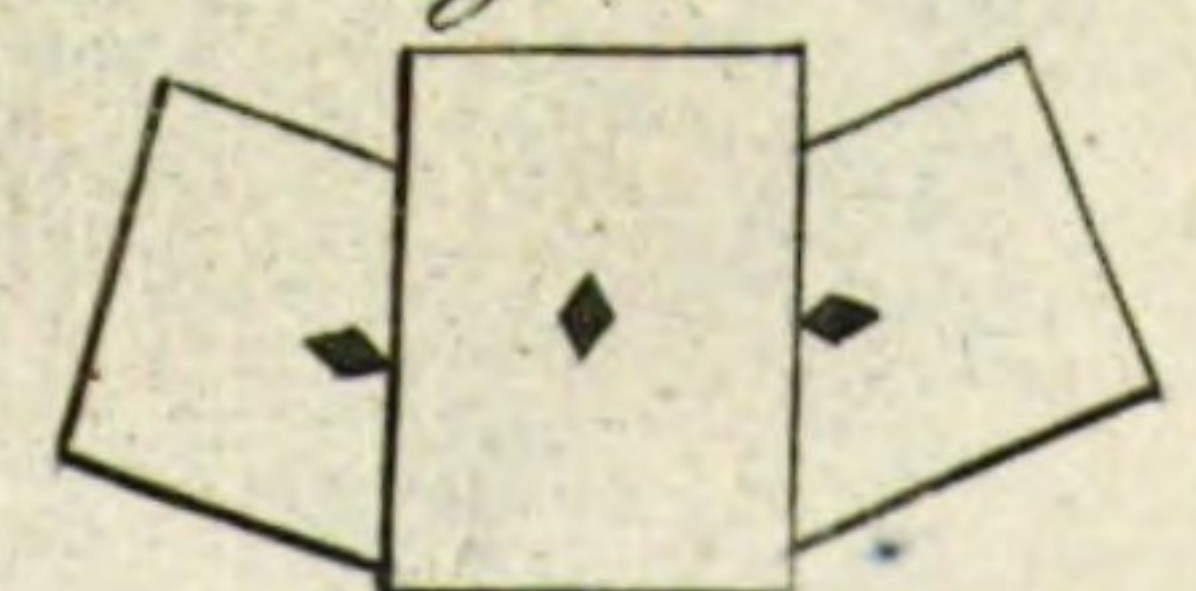


Fig. 20.

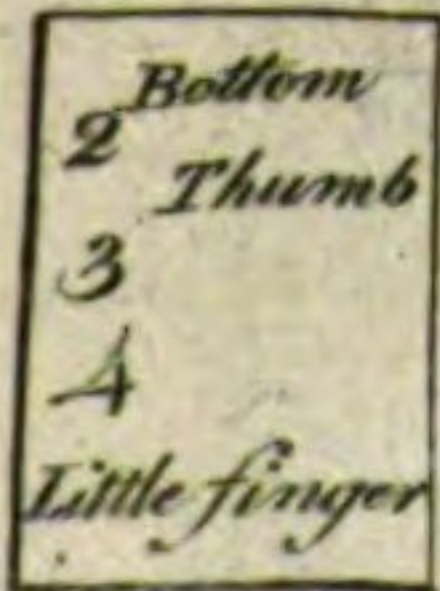


Fig. 21.

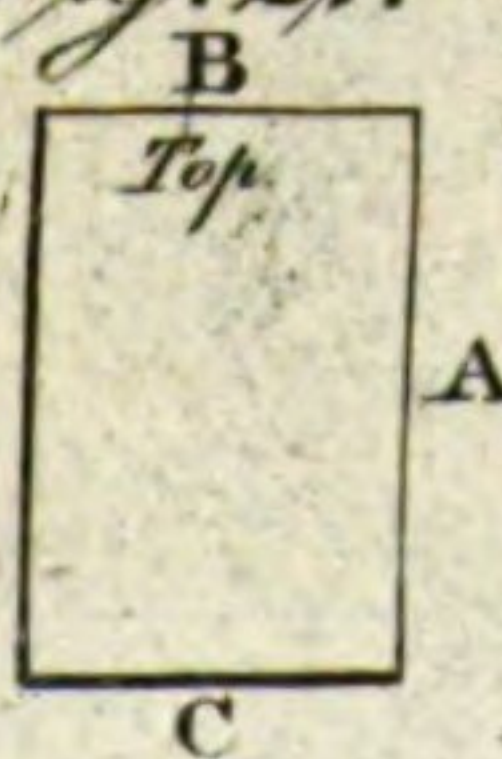
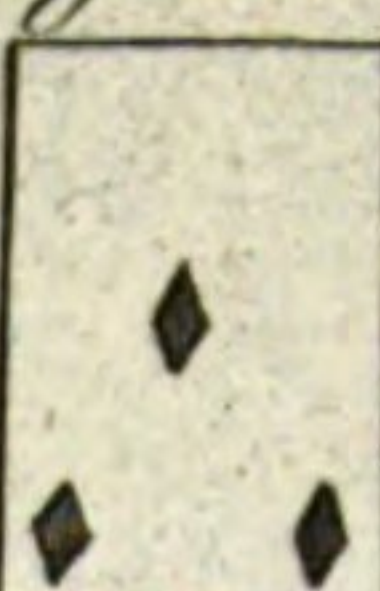


Fig. 22.



take part of the burnt card, and reducing it to powder, you rub the stone with it, and at the same time turn it artfully about, so that the small card at bottom may come in view.

The magic
tea-caddy.

Plate
CCLXVII.

13. *To change one card into another.*—Provide a mahogany tea caddy about four or five inches deep, and long enough to admit a common sized playing card: (see fig. 9.). This caddy must be furnished with a moving false bottom B, moveable upon hinges on the inside edge of the front A. This bottom may be made of brass, tin, or lead; and the false bottom must be so exactly fitted, that it cannot, from a slight view, be distinguished from the other. The inside of both caddy and false bottom ought to be lined with black or other dark-coloured cloth or velvet, so that it may not make any noise in falling down. It would be proper that the false bottom should rise with a spring towards the front, and it must be kept tight with a brass spring-catch (a, fig. 10.) screwed to the left side of the box near the top, and which is hid by the cloth covering. The end of this spring projects a little into the front. It is driven back, to let go the false bottom, by means of a small bent wire *bb* let into the front of the caddy; and this pin is moved by the bolt *c*, which, when the box is locked, shoots out against it, by reason of the spring being driven in; by which means the bottom springs down, and covers the card placed in the box.

Before you attempt to show any trick with this caddy, a card must be placed in the inside between the front A and the false bottom B, springing up the bottom afterwards against the front; after which it is ready for use, and shown openly to the company without any danger of a discovery.

Two persons may now be desired to draw two different cards from a pack, one of which must be the same with the one concealed in the caddy. Taking this card from the person who drew it, you put it in the pack, pretend to shuffle it, but keep the card either uppermost or undermost, so that you can easily find it afterwards. Desiring then the other person to come forward and put his card very attentively into the caddy, you in the mean time secretly convey away from the pack the card drawn by the other; then, giving him the key, you desire the caddy to be locked up. After some pretended conjurations, desire him to unlock it again and take out the card; which he will find not to be his, but that drawn by his neighbour: his card being apparently vanished from the caddy, as the other is from the pack.

The two
magic port-
folios.

14. PROVIDE two pieces of pasteboard A and B (fig. 11.) of equal dimensions, $3\frac{1}{2}$ inches long and three broad. Place these beside one another, as shown in the figure. Take then a very smooth silk ribbon, and put a band of it from C to E towards the edge of the pasteboard A, and another from D to F in such a manner as to come beyond the pasteboard, and to admit of being folded over at the two ends. This must be glued on the back of the board A at the places C and D, and at the back of the board B at the places E and F. Place two other bands in a similar manner on the pasteboard B, turning them over on the back of the same board at the places I and L, and at the back of A at the places G and H. These two bands should fall in the inside of the pasteboard, according to the breadth

of the ribbons. The two pasteboards being now placed the one upon the other, will form a kind of port-folio, one of the sides of which will always be hinged when the other is opened. Four small bands of the same ribbon are to be put at the four extremities of the sides MNQR of the two pieces of pasteboard; observing that they pass below the bands already placed. Glue their ends in the same manner as their ends at the back of the boards, ornamenting also the two sides O and P of the pasteboard B with pieces of the same ribbon; but these six last bands are of no use in the performance.

Two pieces of paper folded like the cover of a letter must now be provided, large enough to cover the two ribbons GI and HL, as well as the space contained within them. Glue one of these upon the two ribbons, and apply the other below this; so that the uppermost of these two wrappers may fall exactly over the other, inclosing and hiding the two ribbons entirely. A second port-folio similarly constructed is now to be provided, and both of them covered with coloured paper from the sides where the ribbons are glued and folded.—The deceptions with these port-folios are as follows.

1. *Two cards, chosen at random, having been shut up in two separate places; to make them pass reciprocally from the one into the other.*—The port-folios being constructed in the manner above described; if you open one of them either on the one side or on the other, one of the paper-wrappers will always be visible; and thus it will naturally be supposed that there is no more but one. Having then secretly inclosed a card in each of the wrappers of the port-folios, procure a pack of cards that has but two sorts, and cause two persons fairly draw two cards similar to the first. Present then a port-folio, open, to the first person who drew a card similar to that which was placed in the second, desiring him to place it in the wrapper which he finds vacant. Take back then the port-folio; and, in placing it on the table, artfully turn it over: having placed likewise in the vacant wrapper of the second port-folio the card drawn by the second person; and putting it in the same way upon the table, command the cards reciprocally to pass from the one port-folio into the other; and open them so that each of the persons may take out the card which the other inserted.

2. *A card being shut up in the port-folio; to make it return into the pack.*—To perform this, procure a pack which has two cards of the same kind. One of these is to be openly drawn, and the person who has done so must be told to shut it up under the wrapper of one of the port-folios; and inform him that you will make it return into the pack. Give him the port-folio to blow upon; and on opening it, present him with the empty wrapper, to show him that his card is not there; after which, presenting him with the pack, he will find there the other card, which he will naturally imagine to be the one he put into the wrapper.

3. *To make an answer appear to a question secretly written.* Transcribe on different cards a certain number of questions, and on others the same questions with their answers; taking care to have the hand-writing as much alike as possible, so that no difference can easily be perceived. The same caution must be observed with regard to the cards themselves; which, for that reason, ought

ought to be plain ones. Having written with a pencil at the bottom of the first questions their corresponding answers, shut up one of them secretly in the port-folio; and presenting them to any person, let him draw as by chance that which is similar to the one thus shut up. Make him then place in the other wrapper the question which he had drawn; and telling him that you are about to write an answer even through the port-folio, take a glass, and pretend to read in it the answer to the question. Open it afterwards, so that he may take out the other card himself, and he will imagine it to be the one he selected.

In performing this trick, it will be proper to have a port-folio of the same kind with the two described, which opens only at one side, and which consequently has but one wrapper. This must be shown to such as seem to be too inquisitive, and will be of use to prevent them from entertaining any idea that the folio opens upon both sides. The former must therefore be immediately put into the pocket, in order to give an opportunity of drawing out the other in case the port-folio should be asked for.

The card in
the mirror.
Plate
CCLXVI.

15. PROVIDE a mirror, either round, as A (fig. 18.), or oval, the frame of which must be at least as wide as a card. The glass in the middle must be made to move in the two grooves CD and EF, and so much of the quicksilver must be scraped off as is equal to the size of a common card. You will observe that the glass must likewise be wider than the distance between the frame by at least the width of a card.

Then paste over the part where the quicksilver is rubbed off a piece of pasteboard, on which is a card that must exactly fit the space, which must at first be placed behind the frame.

This mirror must be placed against a partition, through which is to go two strings, by which an assistant in the adjoining room can easily move the glass in the grooves, and consequently make the card appear or disappear at pleasure (c).

Matters being thus prepared, you contrive to make a person draw the same sort of card with that fixed to the mirror, and place it in the middle of the pack: you then make the pass, and bring it to the bottom; you then direct the person to look for his card in the mirror, when the confederate behind the partition is to draw it slowly forward, and it will appear as if placed between the glass and the quicksilver. While the glass is drawing forward, you slide off the card from the bottom of the pack, and convey it away.

The card fixed to the mirror may easily be changed each time the experiment is performed. This experiment may also be made with a print that has a glass before it and a frame of sufficient width, by making a slit in the frame through which the card is to pass; but the effect will not be so striking as in the mirror.

The mar-
vellous
vase.

16. PLACE a vase of wood or pasteboard A B (fig. 19.) on a bracket L, fixed to the partition M. Let the inside of this vase be divided into five parts, *c, d, e, f, g*;

and let the divisions *e* and *d* be wide enough to admit a pack of cards, and those of *e, f, g*, one card only.

Fix a thread of silk at the point H, the other end of which passing down the division *d*, and over the pulley I, runs along the bracket L, and goes out behind the partition M.

Take three cards from a piquet pack, and place one of them in each of the divisions *e, f, g*, making the silk thread or line go under each of them. In the division *c*, put the pack of cards from which you have taken the three cards that are in the other divisions.

Then take another pack of cards, at the top of which are to be three cards of the same sort with those in the three small divisions; and, making the pass, bring them to the middle of the pack, and let them be drawn by three different persons. Then give them all the cards to shuffle; after which place the pack in the division *d*, and tell the parties they shall see the three cards they drew come, at their command, separately out of the vase.

An assistant behind the partition then drawing the line with a gentle and equal motion, the three cards will gradually rise out of the vase. Then take the cards out of the division *c*, and show that those three cards are gone from the pack.

The vase must be placed so high that the inside cannot be seen by the company. You may perform this experiment also without an assistant, by fixing a weight to the end of the silk line, which is to be placed on a support, and let down at pleasure by means of a spring in the partition.

17. LET a small perspective glass be made, that is The divi-
wide enough, at the end where the object-glass is pla- nating per-
ced, to hold a table similar to the following. spective
glass.

1.131	10..132	19.133
2.231	11..232	20.233
3.331	12..332	21.333
4.121	13..122	22.123
5.221	14..222	23.223
6.321	15..322	24.323
7.111	16..112	25.113
8.211	17..212	26.213
9.311	18..312	27.313

Take a pack of cards that consists of 27 only, and giving them to a person, desire him to fix on any one, then shuffle them, and give the pack to you. Place the 27 cards in three heaps, by laying down one alternately on each heap; but before you lay each card down, show it to the person, without seeing it yourself; and when the three heaps are finished, ask him at what number, from 1 to 27, he will have his card appear,

(c) This experiment may be performed without an assistant, if a table be placed against the partition, and the string from the glass be made to pass through a leg of it, and communicate with a small trigger, which you may easily push down with your foot; and at the same time wiping the glass with your handkerchief, as if to make the card appear the more conspicuous. It may also be diversified, by having the figure of a head, suppose that of some absent friend, in the place of the card.

appear, and in which heap it then is? Then look at the heap through the glass, and if the first of the three numbers which stands against that number it is to appear at be 1, put that heap at top; if the number be 2, put it in the middle; and if it be 3, put it at bottom. Then divide the cards into three heaps, in the same manner, a second and third time, and his card will then be at the number he chose.

For example: Suppose he desire that his card shall be the 20th from the top, and the first time of making the heaps he say it is in the third heap: you then look at the table in the perspective, holding it at the same time over that heap, and you see that the first figure is 2; you therefore put that figure in the middle of the pack. The second and third times you in like manner put the heap in which he says it is, at the bottom, the number each time being 3. Then looking at the pack with your glass, as if to discover which the card was, you lay the cards down one by one, and the 20th card will be that he fixed on.

You may show the person his card in the same manner, without asking him at what number it shall appear, by fixing on any number yourself.

The foregoing experiments with the cards will be found sufficient to explain most others of a similar nature that have or may be made: the number of which is very great. To perform those we have described requires no great practice; the two principal points are, the making the pass in a dexterous manner, and a certain address by which you influence a person to draw the card you present. Those that are performed by the long card are in general the most easy, but they are confined to a pack of cards that is ready prepared; whereas those which depend on making the pass, may be performed with any pack that is offered.

SECT. III. *Experiments with Sympathetic Inks.* [See Sympathetic Ink.]

EXPERIMENTS with CLASS I.

1. MAKE a book of 70 or 80 leaves; and in the cover at the end of it let there be a case, which opens next the binding that it be not perceived.

At the top of each right-hand page write any question you please; and at the beginning of the book let there be a table of all those questions, with the number of the page where each is contained. Then write with common ink, on separate papers, each about half the size of the pages in the book, the same questions that are in the book, and under each of them write, with the ink made of the impregnation of saffron, or the dissolution of bismuth, the answer.

Soak a double paper in the vivifying liquor made of quick-lime and orpiment, or the phlogiston of the liver of sulphur, and place it, just before you make the experiment, in the case that is in the cover of the book.

Then deliver some of the papers on which the questions are wrote to the company; and, after they have chosen such as they would have answered, they put them in those leaves where the same questions are contained, and, shutting the book for a few minutes, the

sulphureous spirit with which the paper in the cover of the book is imbibed, will penetrate the leaves, and make the answers visible, which will be of a brown colour, and more or less deep in proportion to the time the book has been closed (D).

2. MAKE a box about four inches long, and three wide, as ABCD, and quite shallow. Let it shut with hinges and fasten with a hook; and let it have two bottoms, the lowest of wood, that draws out by a groove, and the uppermost of pasteboard. Between these two bottoms is to be placed a paper dipped in the vivifying liquor mentioned in the last experiment. Let there be also a board of the same size with the inside of the box, which being placed in it may press a paper against the pasteboard bottom.

Then take several pieces of paper, of the same size with the inside of the box, and draw on them the figures of men and women, in different attitudes and employments, as walking, riding, reading, writing, &c. These figures must be drawn with a new pen, or pencil, dipped in the impregnation of Saturn.

Being thus provided, and having privately placed the paper dipped in the vivifying liquor between the two bottoms, you tell a person you will show him what an absent friend of his is doing at the present hour. You then give him the paper adapted to the employment you intend, and tell him to write his friend's name at the bottom, that you may not change the paper. Then placing that paper next the pasteboard bottom, and putting the piece of wood over it, you shut the box. After amusing him with discourse for three or four minutes, you take out the paper, when he will see his friend in the employment you have assigned him.

3. LET a workman make a hand of wood, as in fig. 16. fixed at the end next the elbow to the piece E, the ends of which go through the screws CD and EF. The fore and middle fingers, and the thumb, are to be moveable at their joints. There must go a wire through the arm, that is fixed at one end to the fore-finger, and at the other to the piece E, round which it is to move: under the two joints of the two fingers are also placed two small springs, which are to raise it up.

To the fore-finger and thumb fix two small rings, through which a pen may be put, so as not to impede their motion. Under the arm at the point I, place a small brass roller, which serves to sustain the arm.

The pedestal on which this hand is placed must be at least a foot long, if the hand be of the natural size, and about eight inches wide. This pedestal must be hollow, and at the part ST there must be an opening about three inches long and two inches wide; the whole pedestal may be covered with a thin stuff, by which the hole will be concealed. There is to be a valve, or sort of trap-door, on the inside of the pedestal, which is to fasten against the opening.

Over the hand and pedestal place a glass frame, as in the figure: cover the hand with fine leather of flesh colour, and decorate the arm with a ruffle and cuff, which will entirely conceal the machinery.

Then take a number of cards, and write on them different questions; and on the same number of papers write,

(D) If a weight be placed upon the book, the effect will be the sooner produced. Or you may put the book in a box that will press it close down.

write, with the impregnation of lead, the answers. Give the cards to any one, and let him choose a question; and you place the paper with the answer under the pen in the hand, letting him first see there is no writing on it (E). Now the pedestal being placed against a partition, the end F is to go through it. Therefore an assistant, upon a signal given, turns a handle fixed to F; and, as the piece E turns round, the wires that move the fingers and thumb are alternately lengthened and shortened, by which their joints are kept in continual motion; and the screw at the same time turning gently from F towards G, gives the whole arm a motion which very much resembles that of nature (F).

The hand and pen serve here merely to assist the illusion: but if a bit of sponge, dipped in the vivifying liquor, be placed at the end of the pen, as it goes over the writing on the paper, it will make it become gradually visible, and in this case the trap-door and dipped paper may be omitted (G).

DECEPTION with CLASS II.

The writing against the wall.

4. TAKE several pieces of paper, of a size that you can put in any book that will go into your pocket, and write at the top of each of them a question, with common ink, and under it write the answer with the solution of gold or silver. Give any of these papers, closely wrapt up, to a person, and tell him to place it against the wall of his chamber, and keeping the door locked he will next day find the answer wrote on it.

As the gold ink will sometimes give a yellow cast to the paper, you may previously give a slight tincture of that kind to the papers you use for this purpose.

DECEPTION with CLASS III.

Magical vegetation.

5. ON different papers draw the figures of several leaves or flowers with one of the colourless juices mentioned: then take one of the corresponding leaves or flowers, and laying it on an iron plate, over a chafing-dish of hot coals, let it burn to ashes. Put these ashes into a sieve, in which there is some very fine steel-filings, and sift them over the paper on which the flower is drawn, when they will adhere to the glutinous liquor, and form an exact representation of the figure of the leaf or flower.

DECEPTIONS with CLASS IV.

The talisman, fig. 7.

6 MAKE a little triangular box, each side of which is to be about five inches, and let its inside be divided into three parts. The first part A, which makes the bottom of the box, is to be covered by the second part B, in form of a case, and let the top C exactly cover the part B, as is expressed in the figure and the profiles.

Nº 180.

Upon the bottom of the box let there be a plate of copper, about one-twentieth of an inch thick, on which let there be a number of hieroglyphic characters contiguous to each other, and cut in different sorts of metal.

On the top of the cover place a knob O, that goes through it, and to which the copper triangle Q is to be fixed occasionally, in such manner as it may go into the case B. There must be a space of one quarter of an inch between the triangle Q and the bottom of the case B; into which another plate of copper, of that thickness, may be placed.

The outside of this talisman may be decorated with uncommon figures or characters, to give it the appearance of greater mystery.

On several pieces of paper, of the same size with the inside of the talisman, write different questions in common ink, and write the answers in those different sorts of sympathetic ink that appear when heated, observing that each word of the answer is to be wrote in a different ink.

Having properly heated the triangle, and placed it under the cover, you introduce the talisman, and tell any one of the company to choose one of the papers on which the questions are wrote, and place it in the talisman, and he will immediately have an answer wrote on that paper, the words of which will be of different colours, according to the different metals of which the talisman is composed. The paper being placed in the talisman, and the cover placed over it, the heat of the triangle will make the answer visible in a few moments. This experiment may be repeated if the triangle be made sufficiently hot; and two papers may be placed in the talisman at the same time.

This deception, when well executed, occasions a surprise that cannot be conceived by a mere description.

7. MAKE a wooden pedestal AB, about ten inches long, eight wide, and one deep: and at one end erect a box C, about ten inches high, eight broad, and two and a half deep. The sibyls, fig. 5.

The top of the pedestal must slide in a groove, on which inscribe a dial M, of six inches diameter, and which is to be divided into nineteen equal parts, in twelve of which write the names of the months, and mark the respective signs of the zodiac; and in the seven other divisions, which must be next the end B, write the days of the week, and mark the figures of the planets. Next the inner circle NO, make an opening into the box, of about one tenth of an inch. On the centre of the dial place an index that turns freely on its centre.

Within the pedestal place a pulley P, about four inches diameter, which is to turn on an axis that is directly

(E) The paper dipped in the vivifying liquor is to be previously placed against the opening in the table, and supported by the trap-door.

(F) This might be performed without an assistant, by means of a trigger placed in the leg of the table, and communicating with the handles, which the operator might thrust down with his foot. Where expence is not regarded, there may be a complete figure of a man in wood, or plaster of Paris, seated by the table.

(G) You may also have a glass ink-stand, with some of the vivifying liquor, into which the pen may be dipped, and it will then appear to write with common ink. The spectators should not be permitted to come very near this machine, which may be applied to several other purposes.

directly under the centre of the dial; and on the upper part of that axis fix a bent index R, which comes out at the opening made by the inner circle (H), and passes over those seven divisions only on which are wrote the days of the week.

Within the box C, let there be two rollers S and T, as in the figure: let that of S contain a spring; and at the end of T let there be a pulley V, of three quarters of an inch diameter, round which goes a string or thread that passes under the small pulley X, and is fastened to that of P: so that when the last pulley makes about one-third of a turn, that of V may make three or four turns.

There must also be a scroll of paper, about two feet long, and each end of which must be pasted to one of the rollers. In the front of the box, between the two rollers, make an aperture D, about four inches long, and one inch and a half wide: to this opening let there be a little flap or slider, by which it may be closed at pleasure.

The apparatus being thus disposed, place the index R successively against each of the divisions marked with one of the planets; and as the paper is gradually wound up the roller, mark, against that part which is at the aperture D, the name of one of the following sibyls:

The Hellepontian	} sibyl.
Cumean	
Artemisian	
Phrygian	
Albunian	
Persian	
Libyan	

On each of the seven cards write a different question, and draw one of the seven planets. Next, take a memorandum book that contains seven leaves, and on each of them write the name of one of the foregoing sibyls; in each of the leaves place several pieces of paper, and on each of them write, with the sympathetic ink that does not appear till the paper is heated, different answers to the same question.

Then give a person the seven cards on which the questions are wrote, and tell him to choose one of them privately, and conceal the rest, so that it cannot possibly be known which of them he has chosen.

Next, tell him to place the index that points to the month against that in which he was born (1), and to place the index of the planets against that which is on the card he has chosen, and which is to preside over the answer: you tell him to do this privately, that no one may see him, and after that to cover the dial with his handkerchief. Then let him open the door that is before the aperture in the box, and tell you the name of the sibyl there visible.

You then open the memorandum-book, and taking out the papers that are in the leaf where the name of the sibyl just mentioned is wrote, you desire him to

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choose any one of them he thinks proper. The talisman used in the last experiment being properly heated, is then to be introduced, when you direct the person to put the blank paper into it; and taking it out a few moments after, he will find the answer to his question.

To make this operation appear the more extraordinary, it will be proper to have a small press or cupboard, at the back of which there is a door that opens into an adjoining room, by which means an assistant having prepared the talisman, may place it in the cupboard the moment before it is wanted. This contrivance will be useful on many other occasions.

8. PROVIDE an urn of wood or metal about six inches high, and two and a half diameter in the widest part, and of such figure in other respects as you think proper (see fig. 9.). Let there be a cylinder of copper C, (fig. 10.) of about one-eighth of an inch diameter, which is to fill a hole AB made in the urn. The top of this cylinder is to be in the top of the urn, so that it may be easily taken out. To this urn there must be a cover D, which fits it exactly.

On a small square piece of paper draw the figure of a flower or leaf, with that sort of sympathetic ink whose colour most resembles it. You then present several sorts of flowers or leaves to a person, and desire him to choose any one of them. Then put that flower on a chafingdish of hot coals; and, taking the paper on which it is secretly drawn, you give it to the person to examine, and then put it in the urn, having previously heated the cylinder (K). Then taking some of the ashes of the burnt flower, you strew them over the paper, after which you take it out and show the company the figure of that flower. While the flower is burning, you may sprinkle some powder over it, suppose that of saltpetre; and by that, mixed with the ashes of the flower, the company may imagine the effect is produced.

The press or cupboard mentioned in the preceding experiment, will be here very convenient for heating the cylinder and placing it in the urn. A similar deception may be performed by putting the paper in a copper vessel, that may be placed on an iron plate over the chafingdish in which the flower is burnt. But this method has not so mysterious an appearance as the other, and in some persons may cause a suspicion that the effect is produced by heat.

9. To perform this experiment, you must observe, that there are several letters which may be changed veritable into others, without any appearance of the alteration; cards. as, the *a* into *d*, the *c* into *a*, *e*, *d*, *g*, *o*, or *q*, the *i* into *b*, *d*, or *l*, the *l* into *t*, the *o* into *a*, *d*, *g*, or *q*, the *v* into *y*, &c.

Take a parcel of cards, suppose 20, and on one of them write, with the ink of the fourth class, the word *law* (L), and on the other, with the same ink, the words *old woman*; then holding them to the fire, they will both become visible. Now you will observe, that

5 E by

(H) If the axis be made to pass through the top of the pedestal, this opening will not be necessary.

(1) These months and the index are of no other use than to give the experiment an air of greater mystery.

(K) There are some sorts of sympathetic inks that require much more heat than others.

(L) These letters should not be joined.

by altering the *a* in the word *law* into *d*, and adding *o* before the *l*, and *oman* after the *w*, it becomes *old woman*. Therefore, you make those alterations with the invisible ink, and let it remain so. On the rest of the cards you write any words you think fit.

Present the cards in such a manner to two persons, that one of them shall draw the word *law*, and the other the words *old woman*. You then tell the person who drew the word *law*, that it shall disappear, and the words on the other card shall be wrote in its place; and that you may not change the cards, desire each of the parties to write his name on his card. Then putting the cards together, and holding them before the fire, as if to dry the names just wrote, the word *law* will presently change into *old woman*.

This experiment may be varied by fixing on a word that may be changed into three other words, and making four persons draw the cards on which those words are wrote; and it may be further diversified by choosing three such words, as that the first can be changed into the second, and the second into the third. You then tell him who drew the first word, that it shall be changed into that drawn by the second person; and him you tell, that his word shall be changed into that of the third person.

The oracular letters.

10. WRITE on several slips of paper different questions, and such as may be answered by the name of some person; for example, Who is the merriest man in the company? Answer, Mr * * *. To whom will Miss * * * be married? Answer, To Mr * * *. These questions are to be wrote in the sympathetic ink of this class, and exposed to the fire, and the answers wrote in the same ink, and left invisible. The papers are to be folded in form of letters, and in such manner that the part where the name is wrote shall be directly under the seal, and the heat of the wax will make it visible. Then give the letter to the person who requires the answer, and he will find it plainly wrote.

A deception similar to this may be made with a number of blank cards, on each of which an ace of spades is drawn with the invisible ink; then let a person choose any one of them, and inclose it in a letter-case, prepared in such manner that the figure of the ace shall be directly under the seal, and on opening the letter it will be immediately visible.

DECEPTIONS with CLASS V.

The incomprehensible writing.

11. HAVE a box that is divided into three parts after the same manner as the talisman in the 21st experiment, except that, instead of being triangular, it must be of a long square (see fig. 14.) Divide its top B into two equal parts D and E, as in fig. 13. and to the part D adjust a plate of copper L, about one quarter of an inch thick, and under both the plate L and the opening E place a cloth. The upper part C must have a button by which it may be fixed on the cover B, so as to appear of one piece with it.

At the bottom of the box place a piece of cloth, or other stuff, on which you may stamp certain myste-

rious characters, and observe that the bottom of the cover must rest upon this cloth.

Then provide a slip of paper GH (fig. 12.) of the same size with the bottom of the box; and at each end of it write, with the green sympathetic ink, the name of a different card, and make some private mark by which you can tell at which end each name is wrote (M).

Take a parcel of cards, and offer those two of them whose names are wrote on the paper to the two persons, that they may draw them. You tell the parties to keep their cards to themselves, and you propose to make the names of those cards appear upon a slip of paper, which you put into the box. You then ask which name of the two cards shall appear first. The copper-plate being previously heated and placed in the cover, you put it over that end of the paper on which is the name required, and it will presently appear. Then taking the paper out and showing the name wrote, you put it in again, turning the other end to the side of the box where the plate is, and it will in like manner become visible.

The first name may be made to disappear at the same time that the second appears, if the cloth at the end opposite to that where the plate is be made damp.

12. TAKE a print that represents winter, and trace over the proper parts of the trees, plants, and ground, with the green sympathetic ink; observing to make some parts deeper than others, according to their distance. When those parts are dry, paint the other objects with their natural colours. Then put the print in a frame with a glass, and cover the back of it with a paper that is pasted over its border only.

When this print is exposed to the heat of a moderate fire, or to the warm rays of the sun, all the grass and foliage will turn to a pleasing green; and if a yellow tint be given to some parts of the print, before the sympathetic ink be drawn over, this green will be of different shades; and the scene that a minute before represented winter, will now be changed to spring. When this print is placed in the cold, winter will again appear, and will again be driven away by the warm rays of the sun. This alternate change of seasons may be repeated as often as you please; remembering, however, as was before observed, not to make the print at any time too hot, for then a faded autumn will for ever remain.

Winter changed into spring.

DECEPTIONS with CLASS VII.

13. PROVIDE a number of artificial flowers, such as roses, jonquils, pinks, or any other you find convenient. These flowers must be made of white thread or silk, and their leaves of parchment. Dip the roses in the red sympathetic ink, the jonquils in the yellow, the pinks in the violet, and their leaves in a solution of salt of tartar. When they are all dry, form them into small bouquets, which will all appear white, and may be used in this experiment, either the day they are dipped, or several days after.

You take one of these bouquets, and after showing the

The revived beauties.

(M) That there may be no suspicion of the paper being prepared, you may cut it from a whole sheet, before the company, having previously wrote the names.

the company that every part of it is white, you dip it in an infusion of any of the blue flowers mentioned under the article *COLOUR-Making*, n^o 13. and, drawing it presently out, all the flowers and leaves will appear in their natural colours (N).

The transcolored writing.

14. WRITE on a paper, with the violet liquor, as many letters or words as you please; and ask any person whether he will have that writing turn to yellow, green, or red.

Have a sponge with three sides that you can readily distinguish, and dip each of its sides in one of the three sympathetic inks. Draw the side of the sponge that corresponds to the colour the person has chose, over the writing once only; and it will directly change to the colour required (O).

Sect. III. Miscellaneous Performances.

To tell odds or evens.

15. A person having an even number of counters in one hand, and an odd number in the other, to tell in which hand the odd or even number is. LET the person multiply the number in his right-hand by an odd number, and the number in his left-hand by an even number, and tell you if the sum of the products added together be odd or even. If it be even, the even number is in the right hand; but if it be odd, the even number is in the left hand.

Example.

1. Number in the right hand	18	In the left	7
Multipliers	3		2
	54		14
	14		
Their sum	68		

2. Number in the right hand	7	In the left	18
Multipliers	3		2
	21		36
	36		
Their sum	57		

To tell at what hour any person intends to rise.

16. To tell, by the dial of a watch, at what hour any person intends to rise. LET the person set the hand of the dial to any hour he pleases, and tell you what hour that is; and to the number of that hour you add, in your mind, 12. Then tell him to count privately the number of that amount upon the dial, beginning with the next hour to that on which he proposes to rise, and counting backwards, first reckoning the number of the hour at which he has placed the hand. An example will make this plain.

Suppose the hour at which he intends to rise be 8, and that he has placed the hand at 5. You add 12 to 5, and tell him to count 17 on the dial, first reckon-

ing 5, the hour at which the index stands, and counting backwards from the hour at which he intends to rise; and the number 17 will necessarily end at 8, which shows that to be the hour he chose.

That the hour at which the counting ends must be that on which he proposed to rise, will be evident on a little reflection; for if he had began at that hour and counted 12, he would necessarily have come to it again; and calling the number 17, by adding 5 to it, only serves to disguise the matter, but can make no sort of difference in the counting.

17. If the number 11 be multiplied by any one of The magic the nine digits, the two figures of the product will always be similar. As follows:

11	11	11	11	11	11	11	11	11
1	2	3	4	5	6	7	8	9
—	—	—	—	—	—	—	—	—
11	22	33	44	55	66	77	88	99

Place a parcel of counters on a table, and propose to any one to add, alternately, a certain number of those counters, till they amount to 100, but never to add more than 10 at a time. You tell him, moreover, that, if you stake first, he shall never make the even century, but you will. In order to which, you must first stake 1, and remembering the order of the above series, 11, 22, 33, &c. you constantly add, to what he stakes, as many as will make one more than the numbers of that series, that is, as will make 12, 23, 34, &c. till you come to 89, after which the other party cannot make the century himself, nor prevent you from making it.

If the other party has no knowledge of numbers, you may stake any other number first, under ten, provided you take care to secure some one of the last terms, as 56, 67, 78, &c.

This deception may be performed with other numbers; and in order to succeed, you must divide the number to be attained by a number that has one digit more than what you can stake each time, and the remainder will be the number you must first stake. Observe, that, to be sure of success, there must be always a remainder. Suppose, for example, the number to be attained is 52, making use of a pack of cards instead of counters, and that you are never to add more than 6; then divide 52 by the next number above 6, that is, by 7, and the remainder, which is 3, will be the number you must stake first; and whatever the other stakes, you must add as much to it as will make it equal to the number by which you divided, that is, 7. Therefore, if his first stake be 1, you must stake 6, &c. so that your second stake will make the heap 10, your third stake will make it 17, and so on, till you come to 45, when, as he cannot stake more than 6, you must make the number 52.

In this, as in the former case, if the other person has no knowledge of numbers, you may stake any number first under 7; or you may let him stake first, only taking care to secure either of the numbers 10, 17, 24, 31, &c. after which he cannot make 52, if

5 E 2

you

(N) The liquor should be put in a sort of jar with a narrow neck, that it may not be seen by the company; and you should draw the flowers gently out, that the liquor may drop if thin, and they may have time to acquire their colours.

(O) The sponge should be well cleaned immediately after the experiment.

you constantly add as many to his stake as will make it 7.

To tell what number a person privately fixes on.

18. *A person privately fixing on any number, to tell him that number.* AFTER the person has fixed on a number, bid him double it and add 4 to that sum, then multiply the whole by 5; to the product let him add 12, and multiply the amount by 10. From the sum of the whole let him deduct 320, and tell you the remainder; from which if you cut off the two last figures, the number that remains will be that fixed on.

Example.

Let the number chosen be	7
Which doubled is	14
And 4 added to it, makes	18
Which multiplied by 5, gives	90
To which 12 being added, it is	102
That multiplied by 10, makes	1020
From which deducting 320, the remainder is	700
And by striking off the two cyphers, it becomes the original number	7

To tell the number of points thrown up by 3 dice, without seeing them.

19. *Three dice being thrown on a table, to tell the number of each of them, and the order in which they stand.* LET the person who has thrown the dice double the number of that next his left hand, and add 5 to that sum; then multiply the amount by 5, and to the product add the number of the middle die; then let the whole be multiplied by 10, and to that product add the number of the third die. From the total let there be subtracted 250, and the figures of the number that remains will answer to the points of the three dice as they stand on the table.

Example. Suppose the points of the three dice thrown on the table to be 4, 6, and 2,

Then the double of the first die will be	8
To which add	5

	13
	5
	—

That sum multiplied by 5 will be	65
To which add the number of the middle die	6

	71
And multiply the sum by	10

	710
To that product add the number of the third die	2

From the total	712
Subtract	250

	264
--	-----

And the three remaining figures will answer to the numbers on the dice, and show the order in which they stand.

To tell on what finger, joint, &c. a ring has been privately put.

20. *Some person in company having put a ring privately on one of his fingers; to name the person, the hand, the finger, and the joint, on which it is placed.* LET a third person double the number of the order in which he stands who has the ring, and add 5 to that number; then multiply that sum by 5, and to the product add 10. Let him next add 1 to the last number if the ring be on the right hand, and 2 if on the left, and multiply the whole by 10: to this product he must add the number of the finger (counting the thumb as the first finger), and multiply the whole again by 10. Let

him then add the number of the joint; and, lastly, to the whole join 35.

He is then to tell you the amount of the whole, from which you are to subtract 3535, and the remainder will consist of four figures, the first of which will express the rank in which the person stands, the second the hand (the number 1 signifying the right hand, and 2 the left), the third number the finger, and the fourth the joint.

Example. Suppose the person who stands the third in order has put the ring upon the second joint of the thumb of his left hand; then

The double of the rank of the third person is	6
To which add	5

	11
Multiply the sum by	5

	55
To which add	10

And the number of the left hand	2
	67

Which being multiplied by	10
	670

To which add the number of the thumb	1
	671

And multiply again by	10
	6710

Then add the number of the joint	2
And lastly the number	35

	6747
From which deducting	3535

The remainder is	3212
------------------	------

Of which, as we have said, the 3 denotes the third person, the 2 the left hand, the 1 the thumb, and the last 2 the second joint.

21. COVER the outside of a small memorandum-book with black paper, and in one of its inside covers make a flap, to open secretly, and observe there must be nothing over the flap but the black paper that covers the book. The burnt writing re-stored.

Mix foot with black or brown soap, with which rub the side of the black paper next the flap; then wipe it quite clean, so that a white paper pressed against it will not receive any mark.

Provide a black-lead pencil that will not mark without pressing hard on the paper. Have likewise a small box, about the size of the memorandum-book, and that opens on both sides, but on one of them by a private method. Give a person the pencil, and a slip of thin paper, on which he is to write what he thinks proper: you present him the memorandum-book at the same time, that he may not write on the bare board. You tell him to keep what he writes to himself, and direct him to burn it on an iron plate laid on a chafingdish of coals, and give you the ashes. You then go into another room to fetch your magic box above described, and take with you the memorandum-book.

Having previously placed a paper under the flap in the cover of the book, when he presses hard with the pencil,

Fig. 1.



Fig. 2.



Fig. 3.



Fig. 4.



Fig. 5.



Fig. 6.



Fig. 7.

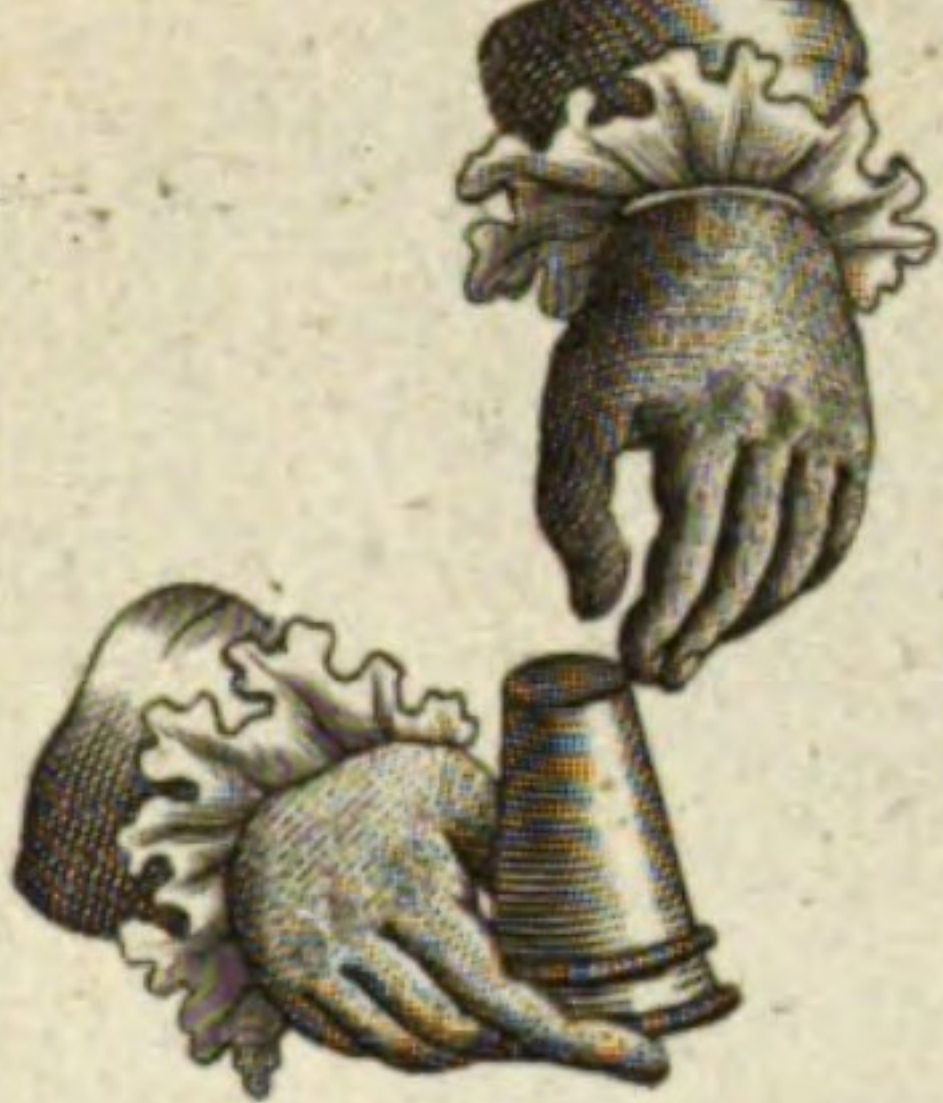


Fig. 8.



Fig. 9.

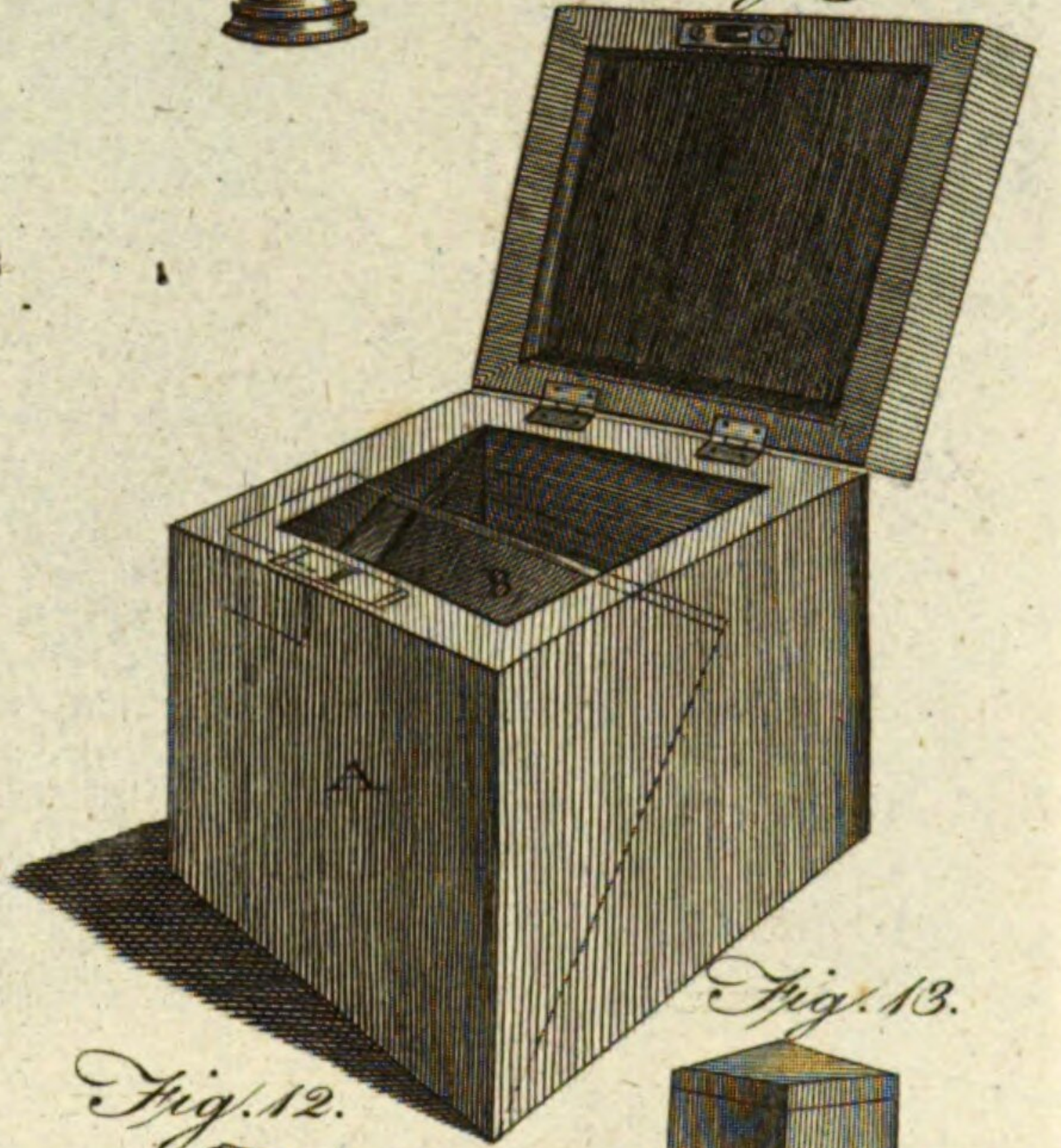


Fig. 10.

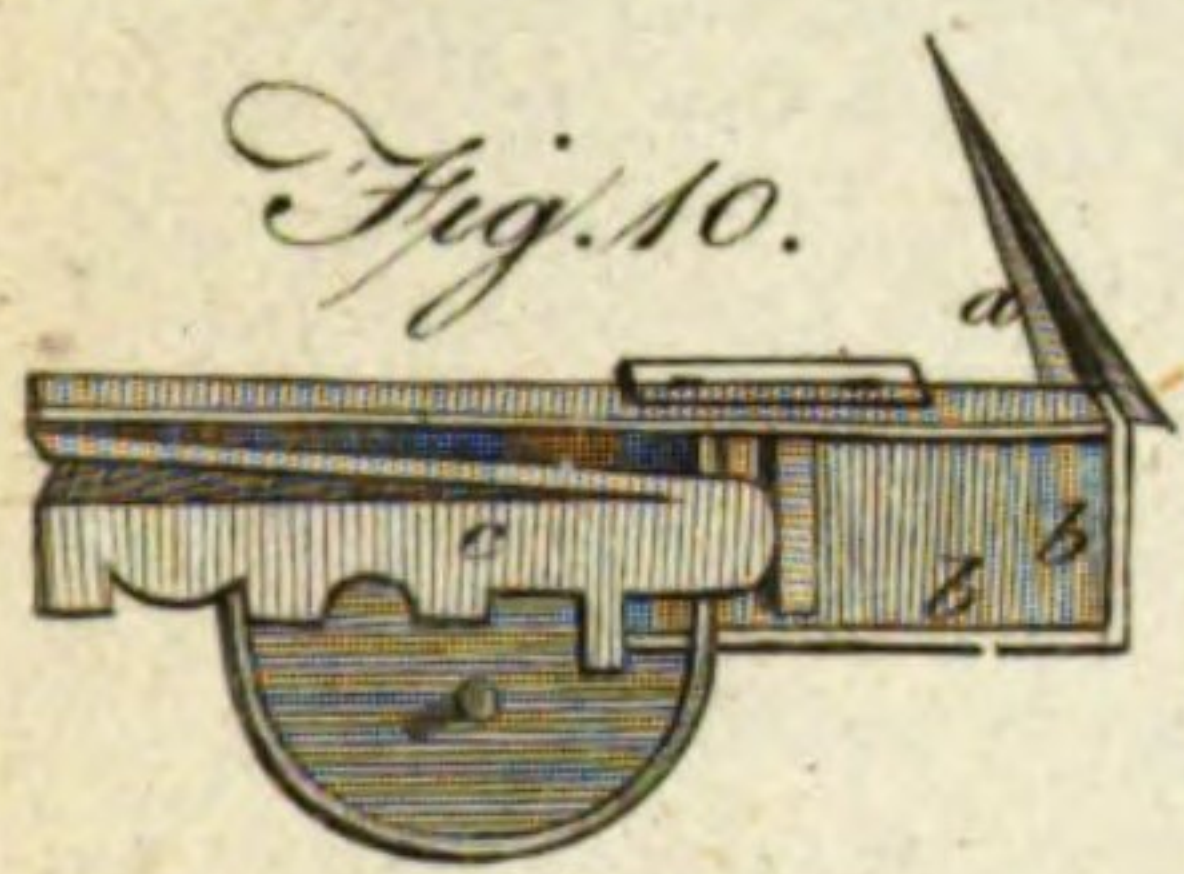


Fig. 11.

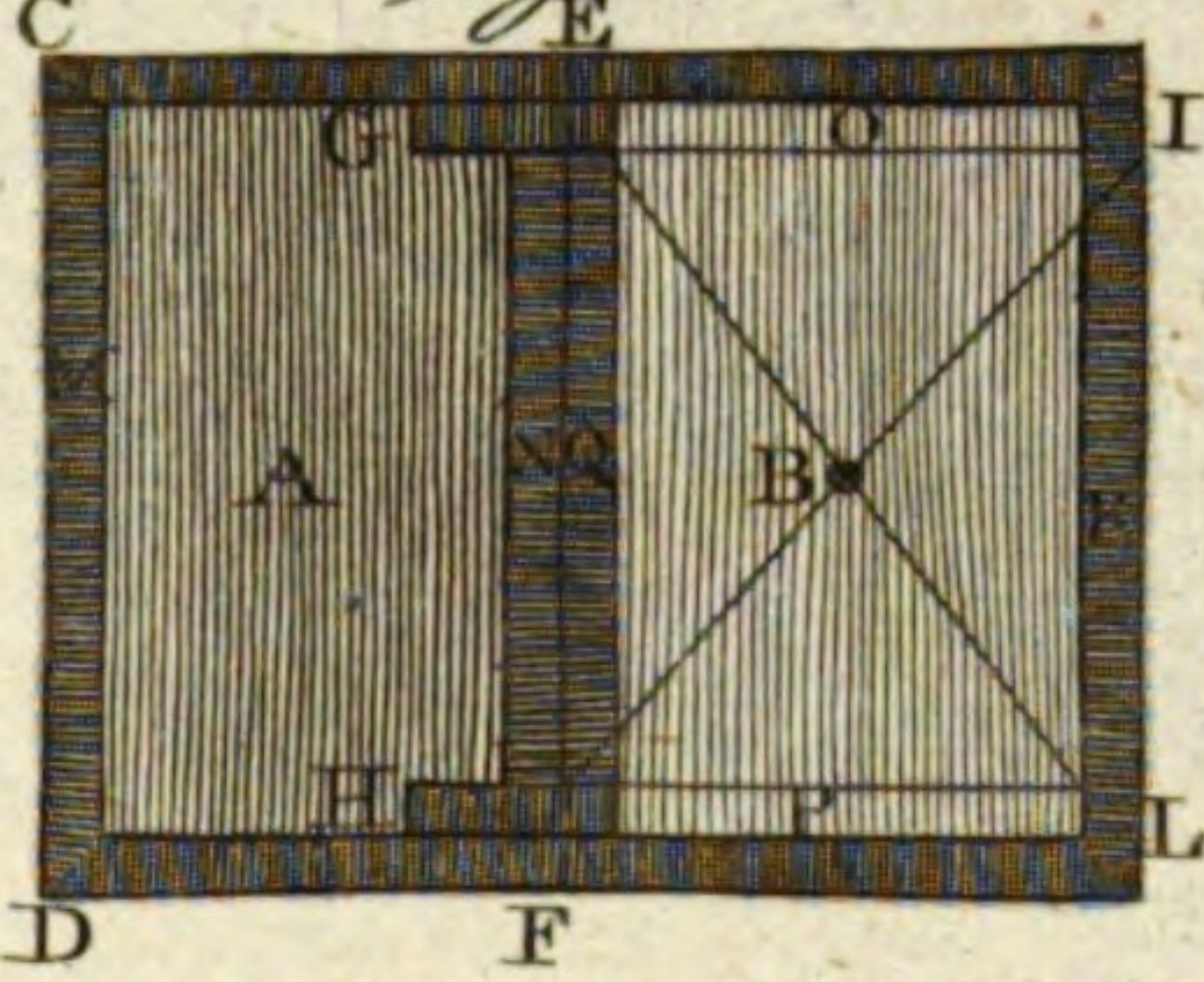


Fig. 14.



Fig. 19.



Fig. 12.

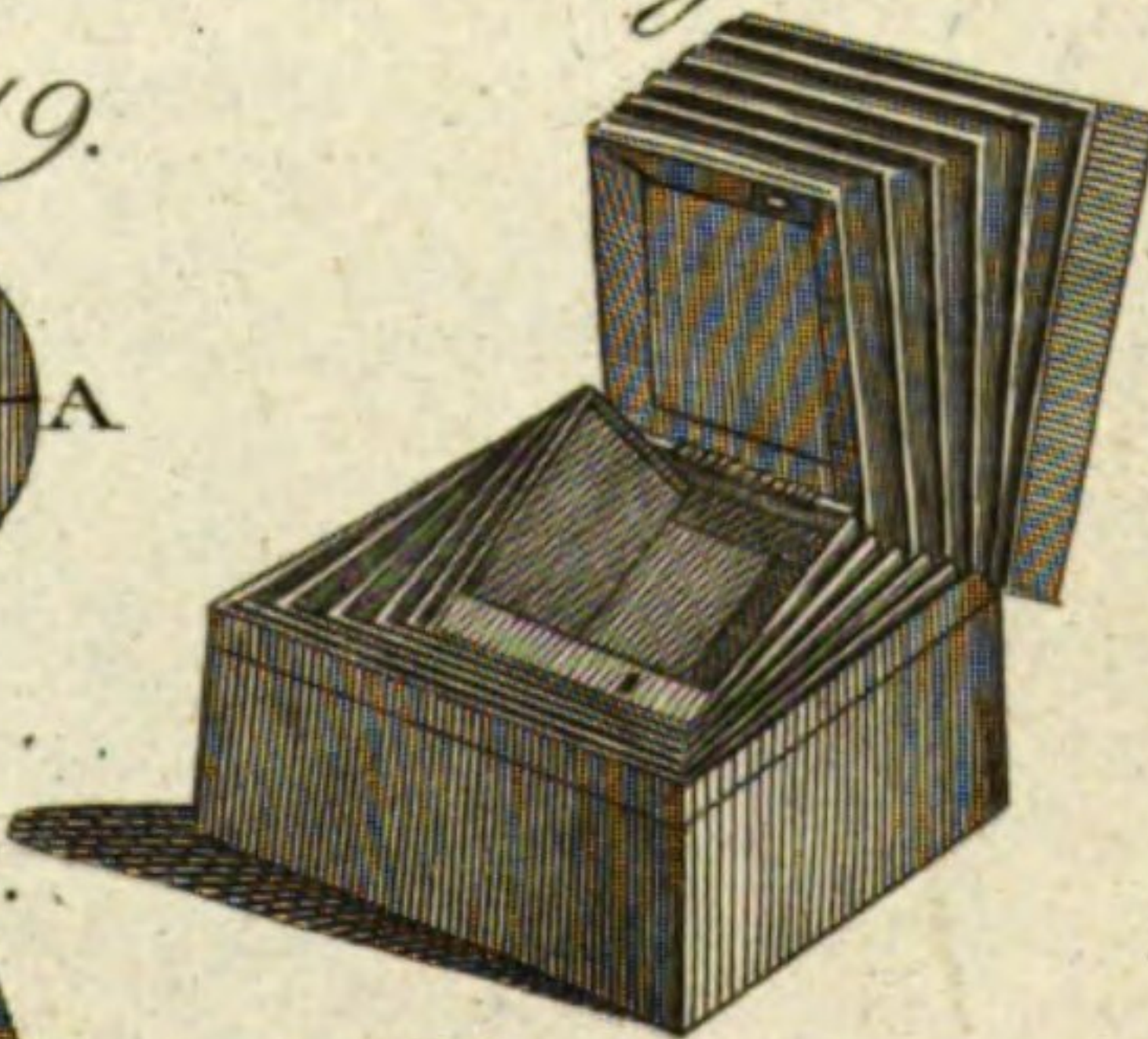


Fig. 13.

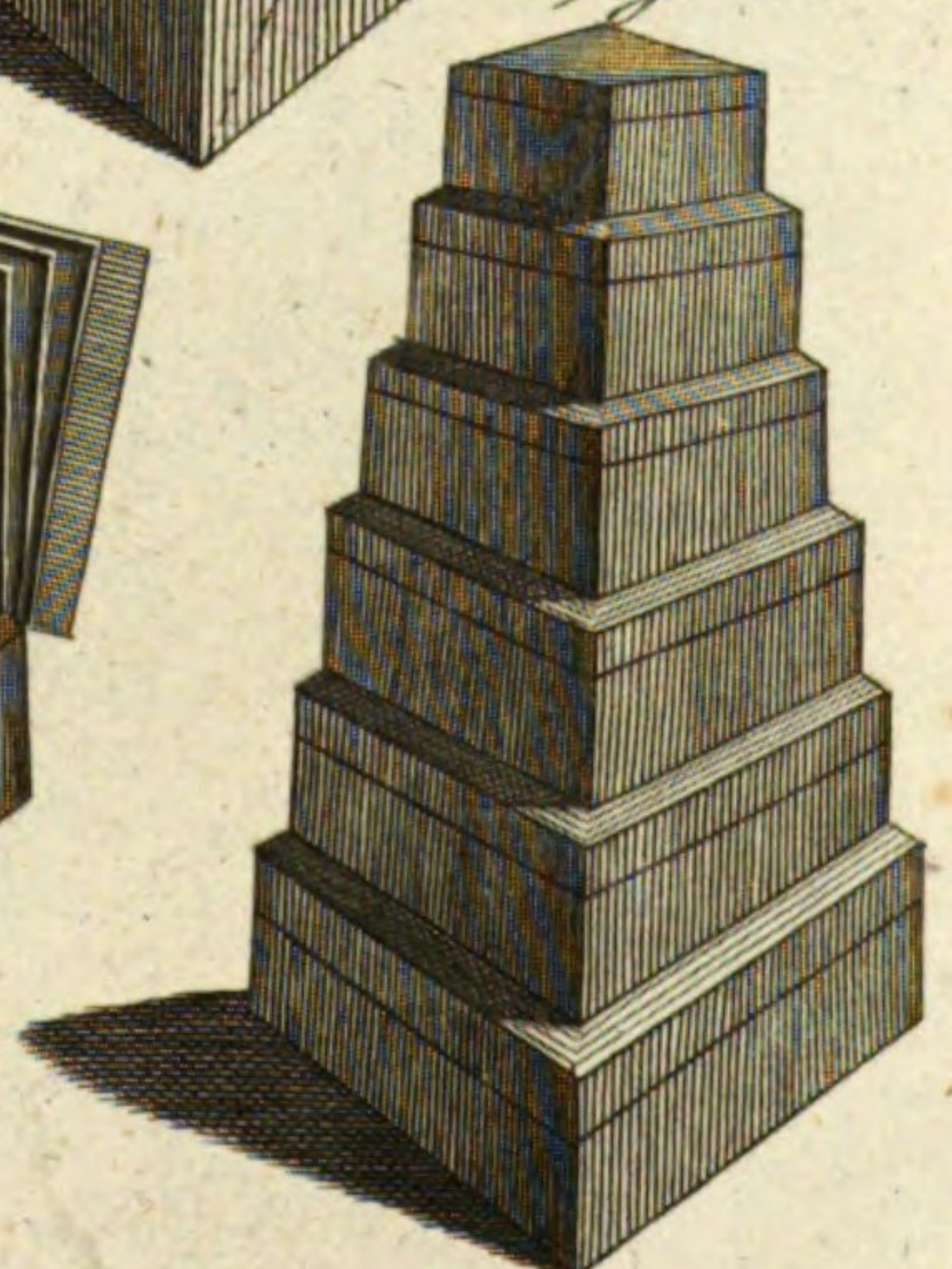


Fig. 15.

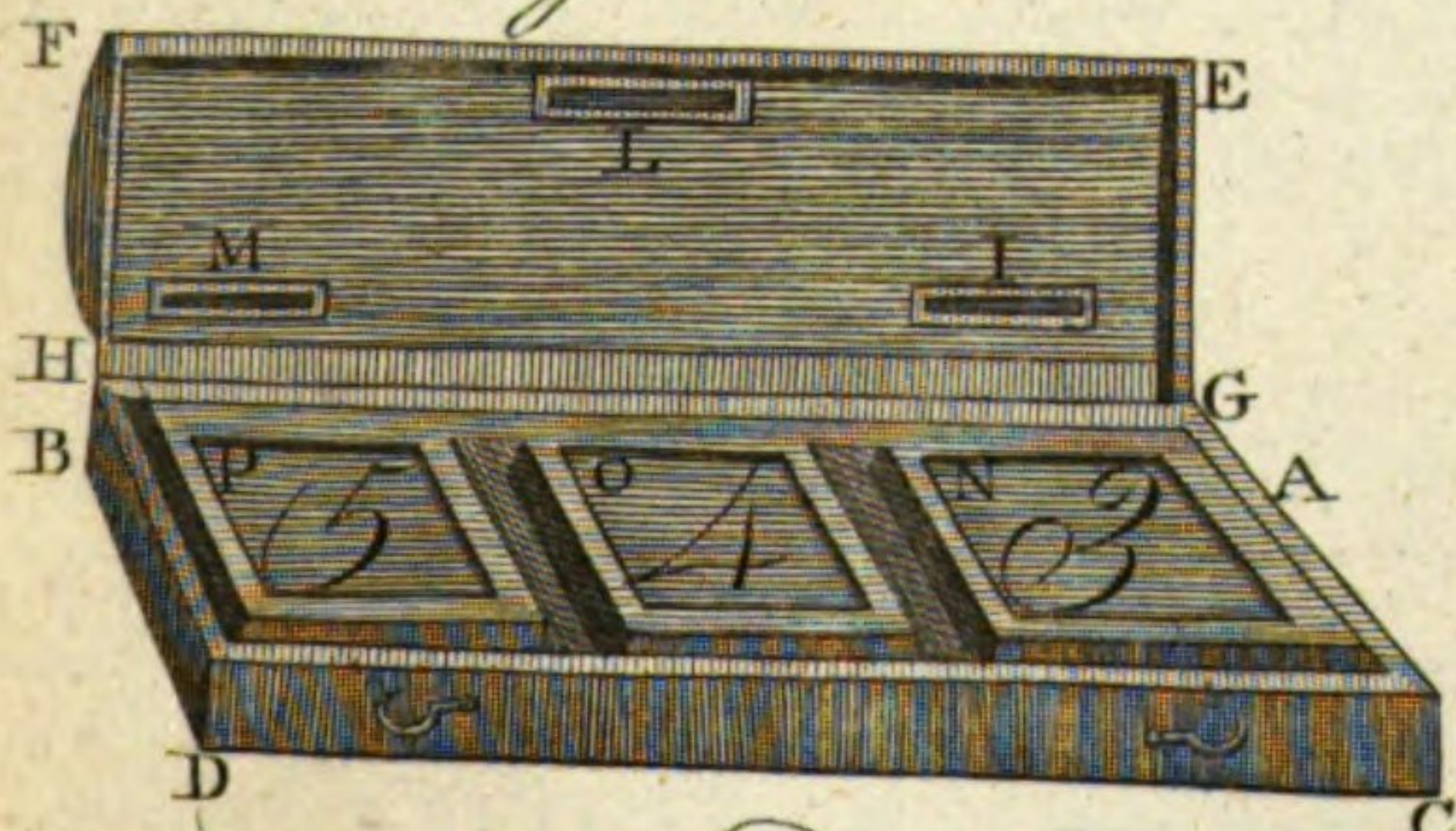


Fig. 22.



Fig. 16.

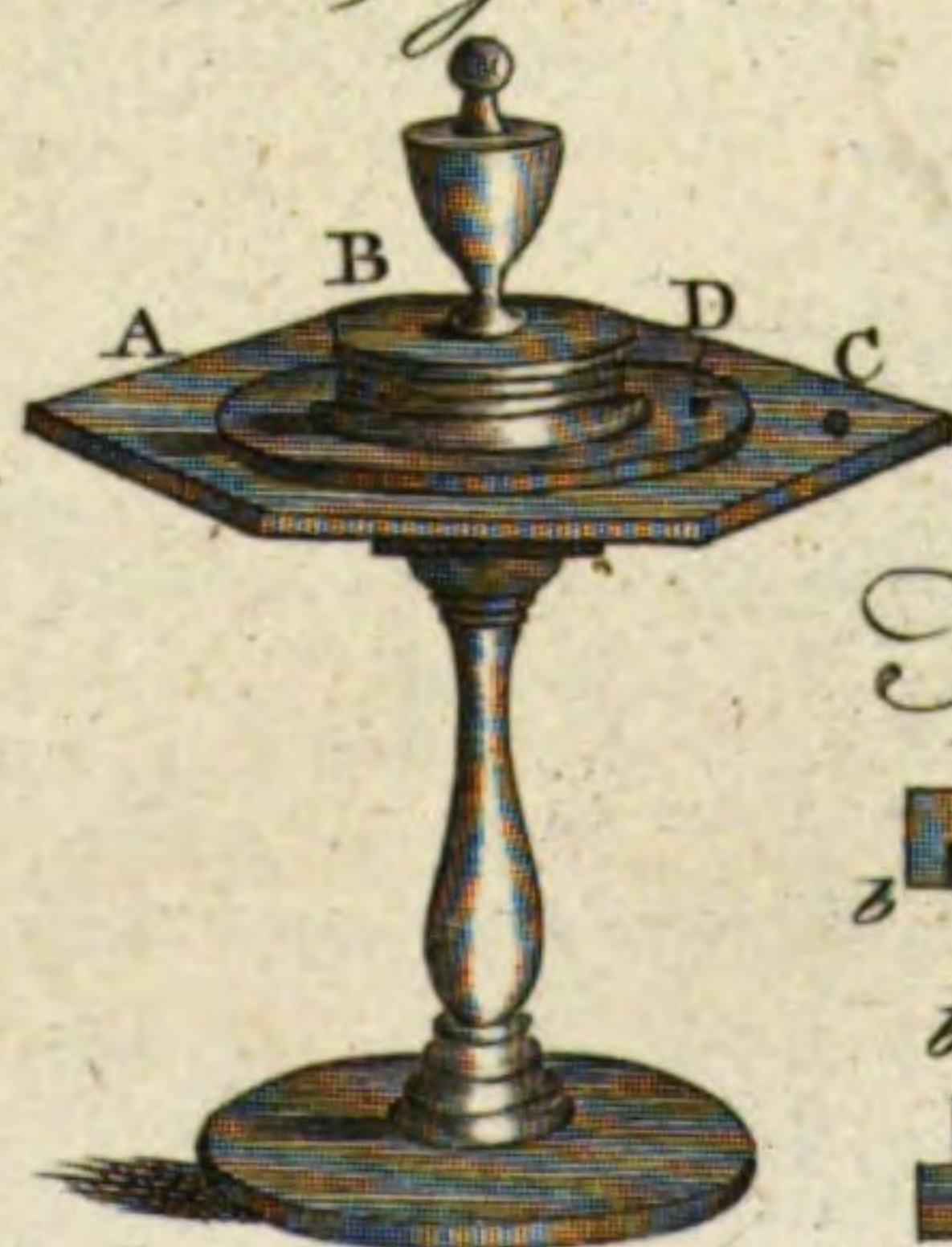


Fig. 23.

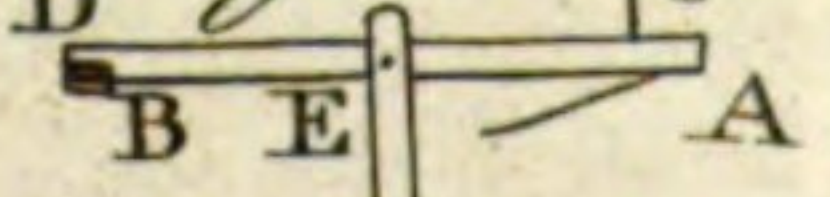


Fig. 21.



Fig. 20.

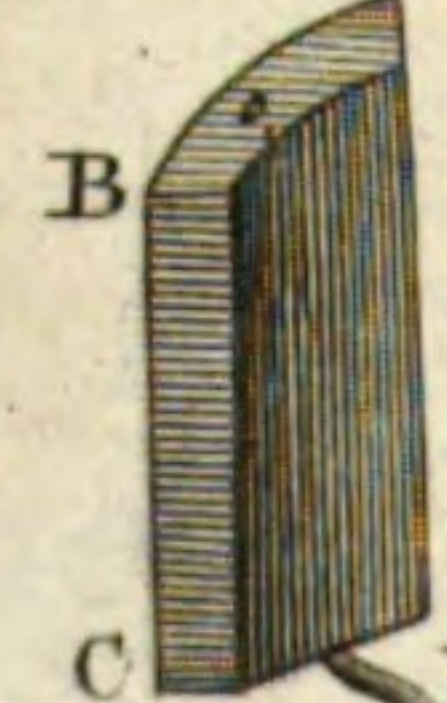


Fig. 17.

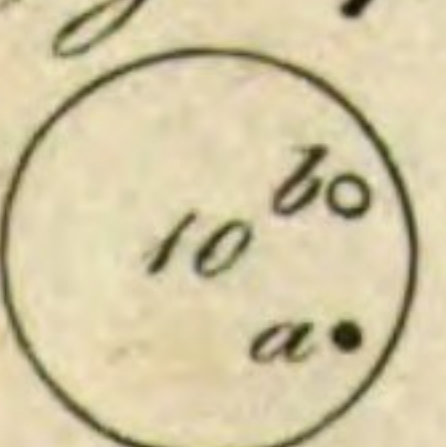
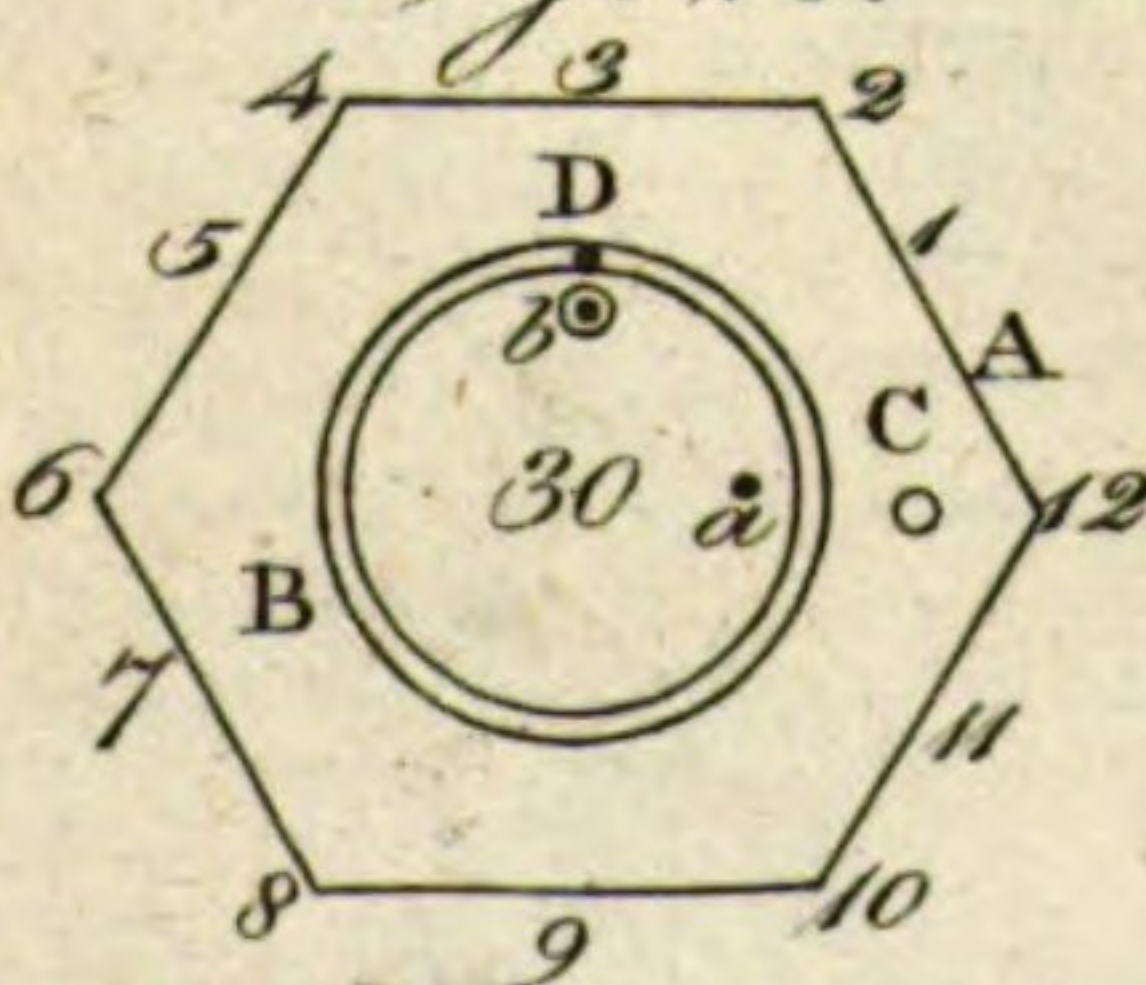


Fig. 18.



pencil, to write on the paper, every stroke, by means of the stuff rubbed on the black paper, will appear on that under the flap. You therefore take it out, and put it into one side of the box.

You then return to the other room, and taking a slip of blank paper, you put it into the other side of the box, strewing the ashes of the burnt paper over it. Then shaking the box for a few moments, and at the same time turning it dexterously over, you open the other side, and show the person the paper you first put in, the writing on which he will readily acknowledge to be his.

The trans-
posable
pieces.

22. TAKE two guineas and two shillings, and grind part of them away, on one side only, so that they may be but of half the common thickness; and observe that they must be quite thin at the edge: then rivet a guinea and a shilling together. Lay one of these double pieces, with the shilling upwards, on the palm of your hand, at the bottom of your three first fingers; and lay the other piece, with the guinea upward, in like manner, in the other hand. Let the company take notice in which hand is the guinea, and in which the shilling. Then as you shut your hands, you naturally turn the pieces over; and when you open them again, the shilling and the guinea will appear to have changed their places.

The pene-
trative
guinea.

23. PROVIDE a round tin-box, of the size of a large snuff-box; and in this place eight other boxes, which will go easily into each other, and let the least of them be of a size to hold a guinea. Each of these boxes should shut with a hinge: and to the least of them there must be a small lock, that is fastened with a spring, but cannot be opened without a key: and observe that all these boxes must shut so freely, that they may be all closed at once. Place these boxes in each other, with their tops open (see fig. 12.), in the drawer of the table on which you make your experiments; or, if you please, in your pocket, in such a manner that they cannot be displaced.

Then ask a person to lend you a new guinea, and desire him to mark it, that it may not be changed. You take this piece in one hand, and in the other you have another of the same appearance; and putting your hand in the drawer you slip the piece that is marked into the least box, and, shutting them all at once, you take them out. Then showing the piece you have in your hand, and which the company suppose to be the same that was marked, you pretend to make it pass through the box, and dexterously convey it away.

You then present the box, for the spectators do not yet know there are more than one, to any person in company; who, when he opens it, finds another, and another, till he comes to the last, but that he cannot open without the key (see fig. 13.) which you then give him, and retiring to a distant part of the room, you tell him to take out the guinea himself, and see if it be that he marked.

This deception may be made more surprising, by putting the key into the snuff-box of one of the company; which you may do by asking him for a pinch of his snuff, and at the same time conceal the key, which must be very small, among the snuff: and when the person who is to open the box asks for the key, you tell him that one of the company has it in his snuff-

box. This part of the deception may likewise be performed by means of a confederate.

24. ABCD, fig. 15. represents a small wooden box The three seven or eight inches long, two and an half broad, magic pic- and half an inch deep; the bottom of which, tures. by means of two cross-pieces, is divided into three equal parts. EFGH represents the lid, which is fa- Plate CCLXVII. stened to the bottom by a hinge, and has in front a small plate shaped like a lock, and two small eyes for hooks which serve to fasten it when it is shut. ILM are three small flexible springs, flat, and about $\frac{1}{4}$ inch long. NOP are three wooden tablets of the same size, upon which are marked the figures 3, 4, and 5. The tablets are of different thicknesses, and the difference is so small as not to be perceived by the eye. The outside of the box is covered with shagreen or morocco leather, and on the inside with silk taffety; these coverings being indispensibly necessary to hide the three small springs abovementioned. Fig. 14. shows the two hinges E and F bent close to the top of the lid ABCD; the piece of brass G, similar to a lock, being also curved to the lid. A small brass stud is rivetted upon the end of each of these springs inserted into the lid, and passes through the curved part of each of the hinges and the lock; so that on the outside they appear as the heads of small pins which fasten them upon the lid. These small studs will be elevated more or less according to the thicknesses of the tablets, that may be shut up in each of the partitions in which they may be found placed; so that the tablet N elevates them more than the tablet O, and the latter less than P; though these elevations are but barely sensible to the sight or touch, and that by a person accustomed to look at or handle them. Thus it may be easily known in whatever order the tablets are placed, however carefully shut up; and consequently the numbers named as inclosed.

Give now the box to any indifferent person, leave him at liberty to form with the tablets any number he pleases, desiring him to return the box well shut up; then taking the box, and determining by the touch, or rather by the eye, what order the tablets are in, it will be very surprising to hear you declare the number without seeing it.

N. B. It will still be equally possible to discover the number, though the tablets should be returned with the bottom upwards, or even though one should be withdrawn in order to defeat your design; particularly if care has been taken to make the studs remain even with the plates when a number is omitted.

25. To discover any particular counter which has been The nume- secretly placed within a box that turns upon it.—This table, rical table. which is made of wood, is represented by A, fig. 16. It is of an hexagonal shape, and about three or four inches diameter. For the sake of neatness in appearance, a proportionably sized pillar with a foot is fixed to it. Round a centre there turns a small round box B of about $\frac{1}{4}$ inch diameter in the inside, the lid of which takes off at B. At the bottom of this box, near the circumference in the inside, is fixed a brass pin to fit a hole made in a flat ivory counter shown at b, fig. 17. The pin and counter are represented in fig. 18. which is a flat view of fig. 16 with the lid of the box B taken off. Opposite to the pin b,

in the same figure, D represents a fine dot designed as a secret mark on the outside of the box, which serves always as a guide to the number of the counter privately placed in the inside of the box, as is afterwards particularly explained. Upon one of the corners of the table is an ivory mark C, fig. 16. and 18. which serves to place the spot *a* upon the counters in its proper position. See fig. 17. There are 12 counters fitted to the box B, marked 10, 20, &c. as far as 120, on the middle of each. On each of these counters is the hole *b*, fig. 17. and 18. which goes over the pin in the bottom of the box; and on one side of this hole a red or black spot is placed in the following manner. When n° 10 is put into the box, the spot must be so far to the left hand of the hole, that when it is brought to the mark C, fig. 18. the hole *b* will be opposite to the side marked 1. When n° 20 is put in, the spot being brought to the mark C will carry the hole to the corner marked 2. When n° 30 is put in, and the spot brought opposite to C, the hole will be brought against the side marked 3, as is shown in the figure, and so on for the rest. Therefore, as opposite to the brass pin, or hole in the counter on the outside of the box B, there is a secret mark D already mentioned, this must serve as an index to the number contained in the box, according as it is opposite to a side or corner of the table.

Give now the table with the box and the 12 counters to any person, and desire him to put one of the counters secretly into the box, keeping the rest to himself; and, after having placed the hole over the pin in the box, to place particularly, by turning the box round, the spot *a* against the mark C on the table. Let him then cover the box, give you the table, and keep the counters to himself. Observe then privately what side or corner the secret outside mark D stands against, reckon the tens accordingly, and tell him the number.

The magic well.

26. *To draw out of the well with a bucket any one of four liquors which have been previously mixed and put into it.*—Provide two tin cylinders of seven or eight inches height; the diameter of the largest, represented by AB fig. 19. to be four inches, and that of the least, CD, two inches. Place the small one within the larger, and connect them together by soldering to them four tin partitions, making the equal spaces *e, f, g, h*. Turn a piece of wood three inches thick, hollow within, and lined with tin, of which a section is given, fig. 20. Into this the exterior cylinder should be closely fitted at *a* and *b*. Another circle of wood (of which a section is given fig. 21.), hollowed at *a, b*, and *c*, is also to be procured, and which may cover exactly the space between the two cylinders; and, lastly, let the whole be constructed in such a manner, that when these three separate pieces are placed together, they may represent a well, as in fig. 22. The two brass or wooden pillars AA, with the axis and handle C, serve to let down and draw up a small glass bucket B, an inch and an half in diameter. Make also four tin reservoirs of the same height with the cylinder, and so shaped as to fill the four spaces *e, f, g, h*, (fig. 19.) which must be well closed at their extremities B and C. On the top of each make a small hole about the tenth part of an inch diameter, and solder at the base C a small tube D, the end of which should be bent towards the inside

of the well when the reservoir is placed in it. Solder on the top of each reservoir a small spring lever and prop ABDE, fig. 23. This spring will serve always to press the end of the lever D down upon the hole at the top of the reservoir B; and in order to cover it more perfectly, a small piece of leather is to be glued on to the end of the lever D. Lastly, a small peg or stud C is placed at the end of each of the levers, and which must be close to the under part of the wooden circle which covers the reservoirs. To conceal these studs, and at the same time to be able to press upon them with the fingers, circular apertures, as shown in fig. 21. must be made in the piece of wood, the top covered with a piece of vellum, and the whole neatly painted with oil colour.

If now you plunge one of these reservoirs perpendicularly into any liquor, in pressing on the stud, so as to uncover the hole at the top, it will be filled with the liquor in proportion to the depth to which it is immersed; and as long as the lever continues to press upon the hole by means of the spring, the liquor cannot run out for want of air, though it will do so the moment the stud is pressed upon and the air admitted. If the reservoir is properly placed, then the liquor will flow out of it into the glass-bucket when let down to a proper depth.

Fill now the four reservoirs with the four different liquors; putting them in their places, and covering them with the circular top. Take a quantity of the same liquors, mix them well together, and pour the whole into the well; after which you may draw out any one which the company desires, by letting down the bucket, and pressing secretly upon the stud belonging to the reservoir which contains it, and which will thus discharge the liquor it contains.

27. PROVIDE a small tin mortar, that is double, as The reservoir A (fig. 8.), whose bottom B turns round on an axis, fast flow- by means of a spring which communicates with the cr. piece C. There must be a hollow space under the Plate false bottom. To the under side of the bottom CCLXV fasten, by a thread of fine silk, a flower, with its stalk and leaves.

Then take a flower that exactly resembles the other, and plucking it from the stalk, and all the leaves from each other, put them into the mortar, and pound them with a small pestle; after which you show the mortar to the company, that they may see the parts are all bruised.

Then taking the mortar up in your hands, you hold it over the flame of a lamp or candle, by whose warmth the flower is supposed to be restored; and at the same time pressing the piece at C, the bottom will turn round, the bruised parts descend into the space under the bottom, and the whole flower will be at top: you then put your hand into the mortar, and easily breaking the silk thread, which may be very short as well as fine, you take the flower out and present it to the company.

There is an experiment similar to this, in which a live bird is concealed at the bottom of the mortar, and one that is dead is pounded in it; after which, by the motion of the bottom, the live bird is set at liberty. But surely the pounding a bird in a mortar, though it be dead, must produce, in persons of any delicacy, more disgust than entertainment.

The lumi-
nous oracle.

28. PROCURE a tin box ABCD (fig. 1.) about eight inches high, four wide, and two deep, and let it be fixed on the wooden stand E. On two of the insides let there be a groove FG; and in the front an opening I, three inches wide and one high.

At the back of the box let there be a little tin-door, that opens outward, by which two wax candles M may be put in. Let the top of the box have a cover of the same metal, in which there are several holes, and which may be taken off at pleasure.

Provide a double glass OP (fig. 2.) constructed in the same manner as that in the last experiment. On one of its sides you are to paste a black paper, the length of which is to be divided into three parts, and the breadth into fifteen; in every two of these fifteen divisions you cut out letters, which will make in the whole three answers to three questions that may be proposed. On the other side of the glass paste a very thin paper, and to the top fasten a small cord, by which they may be made to rise or descend in the groove FG.

Then take a slip of pasteboard RS (fig. 3.), one inch and a half wide and three inches long, which is to be divided into fifteen equal parts similar to those of the paper OP, and cut out spaces, as in the figure, so that this paper, sliding horizontally before OP, will either cover or conceal the letters cut in that.

This pasteboard is to slide between two brass wires, and is to be fastened to one side of the box, by a string that communicates with a small brass spring; and to the other side, by a string fastened to the box by a small piece of wax, so situated that the string may be easily set at liberty by the heat of the candles placed in the box.

Take a parcel of cards, and write on them different questions, three of which are to correspond with the answers on the glass. Shuffle these cards, and let a person draw any one of the three questions. Then by raising the glass you bring the answer against the hole

in the front of the box. You next place the candles in the box, the heat of which will melt the wax that holds the paper RS, which being then drawn by the spring, the answer will be visible; and in proportion as the composition between the glasses becomes diluted by the increase of the heat, the letters will become more strongly illuminated.

The letters cut in the paper may be made to answer several different questions, as has been explained in other experiments; and the whole parcel of cards may consist of questions that may be answered by one or other of the three divisions in the paper.

29. MAKE a tin box ABCD (fig. 4.), with a cover M, that takes off. Let this box be supported by the pedestal FGHI, of the same metal, and on which there is a little door L. In the front of this box is to be a glass O.

In a groove, at a small distance from O, place a double glass of the same sort with that in the last experiment. Between the front and back glasses place a small upright tin tube supported by the cross-piece R. Let there be also a small chafingdish placed in the pedestal FGHI. The box is to be open behind. You privately place a flower (Q) in the tin tube R; and presenting one that resembles it to any person (R), desire him to burn it on the coals in the chafing-dish.

You then strew some powder over the coals, which may be supposed to aid the ashes in producing the flower; and then put the chafingdish in the pedestal, under the box. As the heat by degrees melts the composition between the glasses, the flower will gradually appear; but when the chafingdish is taken away, and the power of the ashes is supposed to be removed, the flower soon disappears.

For entertaining experiments, illusions, &c. of a philosophical nature, see the articles ACOUSTICS, CATOPTICS, CHROMATICS, DIOPTRICS, ELECTRICITY, HYDROSTATICS, MAGNETISM, PYROTECHNICS, &c.

L E G

Leger-line,
Leghorn.

LEGER-LINE, in music, one added to the staff of five lines, when the ascending or descending notes run very high or low: there are sometimes many of these lines both above and below the staff, to the number of four or five.

LEGHORN, anciently called *Liburnus Portus*, but by the modern Italians *Livorno*, a handsome town of Italy, in the duchy of Tuscany, and a free port, about 30 miles south-west from Florence, in the territory of Pisa. The only defect of the harbour is its being too shallow for large ships. Cosmo I. had this town in exchange for Sarzana, from the Genoese; and it is the only sea-port in the duchy. It was then but a mean unhealthy place; but is now very handsome, and well-built, with broad, straight, parallel streets. It is also well fortified; but wants good water, which must be

L E G

brought from Pisa, 14 miles distant. It is about 2 miles in circuit, and the general form of it is square. Part of it has the convenience of canals; one of which is 5 miles in length, and, joining the Arno, merchandise and passengers are thus conveyed to Pisa. The port, consisting of two havens, one for the duke's galleys, and the other for merchant ships, is surrounded with a double mole, above a mile and a half in length, and defended, together with the town, by a good citadel and 12 forts. Roman Catholics, Jews, Greeks, Armenians, Mahometans, and even the English factory, are indulged in the public exercise of their religion; but other Protestants must be satisfied with the private. The trade carried on here is very great, and most of it passes through the hands of the Jews. Though only two piastres, or scudi, are paid for every bale,

(Q) This flower must not be placed so near as to make it in the least degree visible.

(R) You may present several flowers, and let the person choose any one of them. In this case, while he is burning the flower, you fetch the box from another apartment, and at the same time put in a corresponding flower, which will make the experiment still more surprising.

Leghorn
||
Legion.

bale, great or small, imported or exported, yet the duties on all provisions and commodities brought from the continent to the town are very heavy. The number of the inhabitants is said to be about 45,000; and one third of these are Jews, who live in a particular quarter, but without any mark of distinction, and have a fine synagogue. They have engrossed the coral manufactory, have a considerable trade, and possess the chief riches of the place. The garrison consists of 2000 men. The walks on the ramparts are very agreeable. There is good anchorage in the road; but ships riding there are much exposed to the weather and the Barbary corsairs. The number of English families in Leghorn are about 36; they are much favoured by the government, and carry on a good trade. The power of the inquisition is limited to ecclesiastical matters and Roman Catholics. There are a great many Turkish slaves here, brought in by the duke's galleys, who are often sent out on a cruise against the corsairs of Barbary. The lighthouse stands on a rock in the sea; near which is the Lazaretto, where quarantine is performed. Another source, from which the duke draws a great revenue, is the monopoly of brandy, tobacco, and salt; but that, with the heavy duties, makes provisions dear. The Turks, who are not slaves, live in a particular quarter, near that of the Jews. The common prostitutes also have a particular place assigned them, out of which they must not be seen, without leave from the commissary. The number of the rowers in the galleys, whether Turkish slaves, criminals, or volunteers, are about 2000. In the area before the *darfena* or inner harbour, is a fine statue of Duke Ferdinand, with four Turkish slaves, in bronze, chained to the pedestal. The ducal palace is one of the finest structures in the town, and the ordinary residence of the governor. Leghorn is the see of a bishop, and has a noble cathedral; but the other churches are not remarkable. E. Long. 11. 0. N. Lat. 43. 30.

LEGIO VII. GEMINA, (anc. geog.) a town or station of that legion in the *Astures*. Now *Leon*, capital of the province of that name in Spain. W. Long. 6. 5. Lat. 43.—Another LEGIO, a town of Galilee; from which Jerome determines the distances of the places in Galilee; not a bare encampment, though the name might originally be owing to that circumstance; it lay 15 miles to the west of Nazareth, between mount Tabor and the Mediterranean. Now thought to be *Legune*.

LEGION, in Roman antiquity, a body of foot which consisted of different numbers at different periods of time. The word comes from the Latin *legere*, to choose; because, when the legions were raised, they made choice of such of their youth as were most proper to bear arms.

In the time of Romulus the legion consisted of 3000 foot and 300 horse; though, after the reception of the Sabines, it was augmented to 4000. In the war with Hannibal, it was raised to 5000, after this it sunk to 4000 or 4500; this was the number in the time of Polybius. The number of legions kept in pay together, differed according to times and occasions. During the consular state four legions were fitted up every year, and divided betwixt the two consuls; yet we meet with the number of 16 or 18, as the situation of

affairs required. Augustus maintained a standing army of 23 or 25 legions; but this number in after times is seldom found. The different legions borrowed their names from the order in which they were raised; hence we read of *legio prima, secunda, tertia*: but as there might be many *primæ, secundæ, tertiæ, &c.* they were surnamed from the emperors, as *Augusta, Claudiana, Galbiana, Flavia, Ulpia, Trajana, Antoniana, &c.* or from the provinces which had been conquered by their means, as *Parthica, Scythica, Gallica, Arabica, &c.* or from the deities under whose protection the commanders had particularly placed themselves, as *Minervia, Apollinaris, &c.* or from the region where they were quartered, as *Cretensis, Cyrenaica, Britannica, &c.* or from particular accidents, as *adjutrix, martia, fulminatrix, rapax, victrix*.

Each legion was divided into 10 cohorts, each cohort into 10 companies, and each company into two centuries. The chief commander of the legion was called *legatus*, i. e. lieutenant.

The standards borne by the legions were various; at first, the standard was a wolf, in honour of Romulus's nurse; afterwards an hog, which animal was usually sacrificed at the conclusion of a treaty, to indicate that war is undertaken with a view to peace; sometimes a minotaur, to remind the general of his duty of secrecy, of which the labyrinth was an emblem, and consequently the minotaur; a horse was also borne, also a boar; and Marius, we are told, was the first who changed all these for the eagle.

LEGISLATOR, a lawgiver, or person who establishes the polity and laws of a state. Such was Moses, among the Jews; Lycurgus, among the Lacedæmonians, &c. See *MOAIC Law*.

The first laws amongst the Athenians seem to have been those of Theseus; for what we can find earlier than this period is involved in fable. After Theseus came Draco the Archon, whose laws were said, for their severity, to have been written with blood: by his laws every offence was punished with death; so that stealing an apple, and betraying their country, were treated as equal crimes. These laws were afterwards repealed by Solon, except such as related to murder: By way of distinction, Draco's laws were called *Θειμοι*, and Solon's *Νομοι*. The laws of Solon were in a great measure suspended during the usurpation of Pisistratus; but, after the expulsion of his family, were revived with some additions by Cleisthenes. After this, the form of government was again changed, first by the four hundred, and afterwards by the thirty tyrants; but these storms being over, the ancient laws were again restored in the Archonship of Euclides, and others established at the instance of Diocles, Aristophon, and, last of all, of Demetrius the Phalerian. This is a short sketch of the history of the Athenian legislation, before that state submitted to the Roman yoke. But many laws were enacted by the suffrages of the people on particular exigencies; the decrees of the senate continued to have the force of laws no longer than a year. If a new law was to be proposed to the assembly, it was necessary to write it upon a white tablet, and fix it up some days before the meeting, lest their judgment should be caught by surprise. The laws were carefully revised every year; and if any of them, from a change of circumstances, were found unsuitable or pre-

Legion,
Legislator.

Legitimation *παράκλησις των νομων*, because the suffrages were given by holding up of hands. The first laws amongst the Grecians were unwritten and composed in verse, that the common people might with more ease commit them to memory. Solon penned his laws upon wooden tablets, called *Αξονες*; and some authors with great probability assert, that they were written in the manner called *Βυρροπονδον*, from left to right, and from right again to left, in the same manner as oxen walk the furrows in plowing thus,

ΕΚΑΙΟΣ ΑΡ
ΥΘΞΕΝΥΧ

It was against the law for any person to erase a decree, and certain persons called *Γραμματις*, were appointed to prevent any corruption; whose business it was also to transcribe the old and enter the new ones.

At Rome the people were in a great measure their own legislators; though Solon may be said, in some sense, to have been their legislator, as the decemviri, who were created for the making of laws, borrowed a great number from those of Solon. See **LEX**.

With us the legislative power is lodged in the king, lords, and commons assembled in parliament. See **LAW** and **PARLIAMENT**.

LEGITIMATION, an act whereby illegitimate children are rendered legitimate. See **BASTARD**.

LEGITIME, in Scots law, that share of the moveable effects belonging to a husband and wife, which upon the husband's death falls to the children.

LEGUMEN, or **POD**, in botany; a species of seed-vessel which has two valves or external openings inclosing a number of seeds that are fastened along one suture only. In this last circumstance the seed-vessel in question differs from that termed by botanists *siliqua*, in which the inclosed seeds are fastened alternately to both the futures or joinings of the pod.

The seed-vessel of all the pea bloom or butterfly-shaped flowers, the *diadelphia* of Linnæus, is of this pod kind. Such, for instance, is the seed-vessel of the pea, vetch, lupine, and broom.

LEGUMINOUS, an appellation given to all plants whose fruit is a legumen.

LEIBNITZ (Godfrey William-de), an eminent mathematician and philosopher, was born at Leipzig in Saxony in 1646. At the age of 15 years, he applied himself to mathematics at Leipzig and Jena; and in 1663, maintained a thesis *de Principiis Individuationis*. The year following he was admitted master of arts. He read with great attention the Greek philosophers; and endeavoured to reconcile Plato with Aristotle, as he afterwards did Aristotle with Des Cartes. But the study of the law was his principal view; in which faculty he was admitted bachelor in 1665. The year following he would have taken the degree of doctor; but was refused it on pretence that he was too young, though in reality because he had raised himself several enemies by rejecting the principles of Aristotle and the schoolmen. Upon this he went to Altorf, where he maintained a thesis *de Casibus Perplexis*, with such applause, that he had the degree of doctor conferred on him. He might have settled to great advantage at Paris; but as it would have been necessary to have embraced the Roman Catholic religion, he refused all offers. In 1673, he went to England; where he became acquainted with Mr Oldenburg, secretary of

the royal society, and Mr John Collins, fellow of that society. In 1676, he returned to England, and thence went into Holland, in order to proceed to Hanover, where he proposed to settle. Upon his arrival there, he applied himself to enrich the duke's library with the best books of all kinds. The duke dying in 1679, his successor Ernest Augustus, then bishop of Osnaburgh, showed our author the same favour as his predecessor had done, and ordered him to write the history of the house of Brunswick. He undertook it, and travelled over Germany and Italy in order to collect materials. The elector of Brandenburg, afterwards king of Prussia, founded an academy at Berlin by his advice; and he was appointed perpetual president, though his affairs would not permit him to reside constantly at Berlin. He projected an academy of the same kind at Dresden; and this design would have been executed, if it had not been prevented by the confusions in Poland. He was engaged likewise in a scheme for an universal language. His writings had long before made him famous over all Europe. Beside the office of privy-counsellor of justice, which the elector of Hanover had given him, the emperor appointed him in 1711 aulic counsellor; and the czar made him privy-counsellor of justice, with a pension of 1000 ducats. He undertook at the same time the establishment of an academy of science at Vienna; but the plague prevented the execution of it. However, the emperor, as a mark of his favour, settled a pension on him of 2000 florins, and promised him another of 4000 if he would come and reside at Vienna. He would have complied with this offer, but he was prevented by death in 1716. His memory was so strong, that in order to fix any thing in it, he had no more to do but to write it once; and he could even in his old age repeat Virgil exactly. He professed the Lutheran religion, but never went to sermon; and upon his death bed, his coachman, who was his favourite servant, desiring him to send for a minister, he refused, saying, *he had no need of one*. Mr Locke and Mr Molyneux plainly seem to think that he was not so great a man as he had the reputation of being. Foreigners did for some time ascribe to him the honour of an invention, of which he received the first hints from Sir Isaac Newton's letters, who had discovered the method of fluxions in 1664 and 1665. But it would be tedious to give the reader a detail of the dispute concerning the right to that invention.

LEIBNITZIAN philosophy, or the philosophy of Leibnitz, is a system of philosophy formed and published by its author in the last century, partly in emendation of the Cartesian, and partly in opposition to the Newtonian. The basis of Mr Leibnitz's philosophy was that of Des Cartes; for he retained the Cartesian subtle matter, with the universal plenitude and vortices; and represented the universe as a machine that should proceed for ever by the laws of mechanism, in the most perfect state, by an absolute inviolable necessity, though in some things he differs from Des Cartes. After Sir Isaac Newton's philosophy was published in 1687, he printed an essay on the celestial motions, Act. Erud. 1689, where he admits of the circulation of the ether with Des Cartes, and of gravity with Sir Isaac Newton; though he has not reconciled these principles, nor shown how gravity arose from the

Leibnit-
zian.

impulse of this ether, nor how to account for the planetary revolutions, and the laws of the planetary motions in their respective orbits. That which he calls the *harmonical circulation*, is the angular velocity of any one planet, which decreases from the perihelium to the aphelium in the same proportion as its distance from the sun increases; but this law does not apply to the motions of the different planets compared together; because the velocities of the planets, at their mean distances, decrease in the same proportion as the square roots of the numbers expressing those distances. Besides, his system is defective, as it does not reconcile the circulation of the ether with the free motions of the comets in all directions, or with the obliquity of the planes of the planetary orbits; nor resolve other objections to which the hypothesis of the plenum and vortices is liable. Soon after the period just mentioned, the dispute commenced concerning the invention of the method of fluxions, which led Mr Leibnitz to take a very decided part in opposition to the philosophy of Sir Isaac Newton. From the wisdom and goodness of the Deity, and his principle of a sufficient reason, he concluded that the universe was a perfect work, or the best that could possibly have been made; and that other things, which were incommodious and evil, were permitted as necessary consequences of what was best: the material system, considered as a perfect machine, can never fall into disorder, or require to be set right; and to suppose that God interposes in it, is to lessen the skill of the author, and the perfection of his work. He expressly charges an impious tendency on the philosophy of Sir Isaac Newton, because he asserts, that the fabric of the universe and course of nature could not continue for ever in its present state, but would require, in process of time, to be re-established or renewed by the hand of its Former. The perfection of the universe, by reason of which it is capable of continuing for ever by mechanical laws in its present state, led Mr Leibnitz to distinguish between the quantity of motion and the force of bodies; and, whilst he owns, in opposition to Des Cartes, that the former varies, to maintain that the quantity of force is for ever the same in the universe, and to measure the forces of bodies by the squares of their velocities.

This system also requires the utter exclusion of atoms, or of any perfectly hard and inflexible bodies. The advocates of it alledge, that according to the law of continuity, as they call a law of nature invented for the sake of the theory, all changes in nature are produced by insensible and infinitely small degrees; so that no body can, in any case, pass from motion to rest, or from rest to motion, without passing through all possible intermediate degrees of motion: whence they conclude, that atoms or perfectly hard bodies are impossible: because if two of them should meet with equal motions, in contrary directions, they would necessarily stop at once, in violation of the law of continuity.

Mr Leibnitz proposes two principles as the foundation of all our knowledge; the first, that it is impossible for a thing to be and not to be at the same time, which, he says, is the foundation of speculative truth: the other is, that nothing is without a sufficient reason why it should be so rather than otherwise; and by this principle, according to him, we make a transition from abstracted truths to natural philosophy. Hence

he concludes, that the mind is naturally determined, in its volitions and elections, by the greatest apparent good, and that it is impossible to make a choice between things perfectly like, which he calls *indiscernibles*; from whence he infers, that two things perfectly like could not have been produced even by the Deity: and he rejects a vacuum, partly because the parts of it must be supposed perfectly like to each other. For the same reason he also rejects atoms, and all similar particles of matter, to each of which, though divisible in *infinitum*, he ascribes a *monad* (Act. Lipsæ 1698, p. 435.) or active kind of principle, endued, as he says, with perception and appetite. The essence of substance he places in action or activity, or, as he expresses it, in something that is between acting and the faculty of acting. He affirms absolute rest to be impossible, and holds motion, or a sort of *nifus*, to be essential to all material substances. Each monad he describes as representative of the whole universe from its point of sight; and after all, in one of his letters he tells us, that matter is not a substance, but a *substantiatum*, or *phenoméné bien fondé*. He frequently urges the comparison between the effects of opposite motives on the mind, and of weights placed in the scales of a balance, or of powers acting upon the same body with contrary directions. His learned antagonist Dr Clarke denies that there is a similitude between a balance moved by weights, and a mind acting upon the view of certain motives; because the one is entirely passive, and the other not only is acted upon, but acts also. The mind, he owns, is purely passive in receiving the impression of the motive, which is only a perception, and is not to be confounded with the power of acting after, or in consequence of, that perception. The difference between a man and a machine does not consist only in sensation and intelligence, but in this power of acting also. The balance, for want of this power, cannot move at all when the weights are equal; but a free agent, he says, when there appear two perfectly alike reasonable ways of acting, has still within itself a power of choosing; and it may have strong and very good reasons not to forbear.

The translator of Mosheim's Ecclesiastical History observes, that the progress of Arminianism has declined in Germany and several parts of Switzerland, in consequence of the influence of the Leibnitzian and Wolfian philosophy. Leibnitz and Wolf, by attacking that liberty of indifference, which is supposed to imply the power of acting not only without, but against, motives, struck, he says, at the very foundation of the Arminian system. He adds, that the greatest possible perfection of the universe, considered as the ultimate end of creating goodness, removes from the doctrine of predestination those arbitrary procedures and narrow views with which the Calvinists are supposed to have loaded it, and gives it a new, a more pleasing, and a more philosophical aspect. As the Leibnitzians laid down this great end as the supreme object of God's universal dominion, and the hope to which all his dispensations are directed; so they concluded, that if this end was proposed, it must be accomplished. Hence the doctrine of necessity, to fulfil the purposes of a predestination founded in wisdom and goodness; a necessity, physical and mechanical, in the motions of material and inanimate things, but a necessity moral and spiritual

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Leicester. spiritual in the voluntary determinations of intelligent beings, in consequence of propellent motives, which produce their effects with certainty, though these effects be contingent, and by no means the offspring of an absolute and essentially immutable fatality. These principles, says the same writer, are evidently applicable to the main doctrines of Calvinism; by them predestination is confirmed, though modified with respect to its reasons and its end; by them irresistible grace (irresistible in a moral sense) is maintained upon the hypothesis of propellent motives and a moral necessity: the perseverance of the faints is also explicable upon the same system, by a series of moral causes producing a series of moral effects.

LEICESTER, the capital of a county of the same name in England, upon the river Leire, now called *Soare*. From its situation on the Fosse-way, and the many coins and antiquities discovered here, it seems probable that it was a place of some note in the time of the Romans. In the time of the Saxons it was a bishop's see, and afterwards so repaired and fortified by Edelfrida, that it became, according to Matthew Paris, a most wealthy place, having 32 parish-churches; but in Henry the Second's reign it was in a manner quite ruined, for joining in rebellion against him with Robert earl of Leicester. In the reign of Edward III. however, it began to recover by the favour of his son Henry Plantagenet, duke and earl of Lancaster, who founded and endowed a collegiate church and hospital here. It is a borough and corporation, governed by a mayor, recorder, steward, bailiff, 24 aldermen, 48 common-council men, a solicitor, a town-clerk, and two chamberlains. It had its first charter from king John. The freemen are exempt from paying toll in all the fairs and markets of England. It has three hospitals, that mentioned above, built by Henry Plantagenet duke of Lancaster, and capable of supporting 100 aged people decently; another erected and endowed in the reign of Henry VIII. for 12 poor lazars; and another for six poor widows. The castle was a prodigious large building, where the duke of Lancaster kept his court. The hall and kitchen still remain entire, of which the former is very spacious and lofty; and in the tower over one of the gate-ways is kept the magazine for the county militia. There was a famous monastery here, anciently called, from its situation in the meadows, *St Mary de Pratis* or *Prez*. In these meadows is now the course for the horse-race. It is said that Richard III. who was killed at the battle of Bosworth, lies interred in St Margaret's church. The chief business of Leicester is the stocking-trade, which hath produced in general to the amount of 60,000 l. a-year. In a parliament held here in the reign of Henry V. the first law for the burning of heretics was made, levelled against the followers of Wickliffe, who was rector of Lutterworth in this county, and where his pulpit is said still to remain. The town suffered greatly in the civil wars, by two sieges upon the back of one another. It has given the title of *earl* to several noble families. The present earl was created in 1784, and is the marquis of Townshend's son. Its market on Saturday is one of the greatest in England for provisions, especially for corn and cattle; and it has four fairs in the year.

LEICESTERSHIRE, an inland county of England, in form almost circular. It has Nottinghamshire and Derbyshire to the north; Rutlandshire and Lincolnshire on the east; Warwickshire on the west, from which it is parted by the Roman military way called *Watling-street*; and by Northamptonshire on the south; and is about 170 miles in circumference. As it lies at a great distance from the sea, and is free from bogs and marshes, the air is sweet and wholesome. It is a champaign country in general, and abundantly fertile in corn and grass, being watered by several rivers, as the Soare, or Sare, which passes through the middle of it, and abounds in excellent salmon and other fish; the Wreke, Trent, Eye, Senfe, Auker, and Aven. These rivers being mostly navigable, greatly facilitate the trade of the county. In some parts there is a great scarcity of fuel, both wood and coal; but in the more hilly parts there is plenty of both, together with great flocks of sheep. Besides wheat, barley, oats, and pease, it produces the best beans in England. They grow so tall and luxuriant in some places, particularly about Barton in the Beans, that they look, towards the harvest-time, like a forest; and the inhabitants eat them not only when they are green, as in other places, but all the year round; for which reason their neighbours nickname them *bean-bellies*. They have plenty of very good wool, of which they not only make great quantities of stockings, but send a great quantity unmanufactured into other parts of England. They make great profit of their corn and pulse; and likewise breed great numbers of coach and dray horses, most of the gentlemen being graziers; and it is not uncommon to rent grass-farms from 500 l. to 2000 l. a-year. It is in the midland circuit, and diocese of Lincoln; and sends four members to parliament, two for Leicester, and two for the county.

LEIGH (Sir Edward), a very learned Englishman, was born at Shawell in Leicestershire, and educated at Magdalen Hall, Oxford. He was a member of the long parliament, and one of the members of the house of commons who were appointed to sit in the assembly of divines. He was afterwards colonel of a regiment for the parliament; but in 1648 was numbered among the Presbyterians who were turned out, and in December he was imprisoned. From this period to the Restoration he employed himself in writing a considerable number of learned and valuable books, which showed profound learning, a knowledge of the languages, and much critical sagacity; and of which a list is given by Anthony Wood. Sir Edward died at his house called Rushall Hall, in Staffordshire, June 2. 1671; and was buried in the chancel of Rushall church.

LEIGHLIN, a town of Ireland, situated in the county of Carlow, and province of Leinster; about 43 miles from Dublin, near the river Barrow. It is a borough, and returns two members to parliament; patronage in the bishop of the diocese, this being a bishopric united to Ferns. At the east end of the church of Old-Leighlin is a famous well covered with great ash-trees, and dedicated to St Laffarian. This place was formerly a city, though now a very mean village, and the cathedral has been kept in good repair. It was a *sole* bishopric, founded in 632, and joined to

Leighton,
Leinster.

Ferns in 1600. It is reported, that Gurmundus a Danish prince was buried in this church. The last bishop of Leighlin before its union with Ferns, was the Right Rev. Robert Grave, who coming by sea to be installed, suffered shipwreck in the harbour of Dublin, and perished in the waves. This cathedral was burnt to the ground, it is said, by lightning; and rebuilt, A. D. 1232, then dedicated to St. Lassarian or Lazarinus, before-mentioned; since the sees were joined, it is made use of as a parish-church. Leighlin-bridge is situated about two miles from this village; it was destroyed by the Irish in 1577. Here are the remains of a castle and of an old abbey. This is a post town, and has fairs in May, September, and October.

LEIGHTON (Robert), archbishop of Glasgow. During Cromwell's usurpation, he was minister of a church near Edinburgh, and distinguished himself by his charity, and his aversion to religious and political disputes. The ministers were then called over yearly in the synod, and were commonly asked, Whether they had preached to the times? "For God's sake (answered Leighton), when all my brethren preach to the times, suffer me to preach about eternity." His moderation, however, giving offence, he retired to a life of privacy. But soon after, he was called by the unanimous voice of the magistrates, to preside over the college of Edinburgh; where, during ten years, he displayed all the talents of a prudent, wise, and learned governor. Soon after the Restoration, when the ill-judged affair of introducing episcopacy into Scotland was resolved on, Leighton was consecrated bishop of Dunblane, and immediately gave an instance of his moderation: for when Sharpe and the other bishops intended to enter Edinburgh in a pompous manner, Leighton remonstrated against it; but finding that what he said had no weight, he left them, and went to Edinburgh alone. Leighton, in his own diocese, set such a remarkable example of moderation, that he was revered even by the most rigid of the opposite party. He went about, preaching without any appearance of pomp; gave all he had to the poor; and removed none of the ministers, however exceptionable he might think their political principles. But finding that none of the other bishops would be induced to join, as he thought, properly in the work, he went to the king, and resigned his bishopric, telling him he would not have a hand in such oppressive measures. Soon after, the king and council, partly induced by this good bishop's remonstrances, and partly by their own observations, resolved to carry on the cause of episcopacy in Scotland on a different plan; and with this view, Leighton was persuaded to accept of the archbishopric of Glasgow, on which he made one effort more; but finding it not in his power to stem the violence of the times, he resigned his archbishopric, and retired into Suffex, where he devoted himself to acts of piety. He died in the year 1684. He was of a most amiable disposition, strict in his life, polite, cheerful, engaging in his manners, and profoundly learned. He left many sermons and useful tracts, which are greatly esteemed.

LEINSTER, the eastern province of Ireland, bounded by Ulster on the north; St. George's, or the Irish Channel, on the east and south; and by the provinces of Connaught and Munster on the west. The capital

city of this province and of the kingdom is Dublin. It contains 12 counties, viz. Carlow, Dublin, Kildare, Kilkenny, King's county, Longford, Louth, Meath, Queen's county, Westmeath, Wexford, and Wicklow. It is the most level and best cultivated province in the kingdom; containing 2,642,958 Irish plantation acres, 858 parishes, 99 baronies, and 53 boroughs; it is about 124 miles long and 74 broad, and extends from 51° 45' to 55° 45' north latitude. Dermot king of Leinster marrying his daughter Eva to Strongbow earl of Pembroke, on his decease made him his universal heir; whereby the Earl inherited the province of Leinster, and was afterwards enfeoffed of it by Hen. II. He died in 1176, and left an only daughter Isabel, espoused to William Marshal earl of Pembroke; by her he had five sons, who succeeded to his great estates in Leinster. This province gives title of Duke to the ancient and noble family of Fitzgerald. In the early ages, this district was almost one continued forest, and was principally the seat of the Kinelaghys.

LEIPSIC, a large, strong, and populous town of Misnia in Germany, with a castle, and a famous university. It is neat, and regularly built, and the streets are lighted in the night; it carries on a great trade, and has a right to stop and sell the merchandizes designed to pass through it, and the country for 75 miles round has the same privilege. There are three great fairs every year; at the beginning of the year, Easter and Michaelmas, which last 15 days each. There are six handsome colleges belonging to the university, besides the private colleges. The town-house makes an indifferent appearance, but the exchange is a fine structure. The town was taken by the king of Prussia in the late war, but given up by the peace in 1763. It is seated in a plain between the rivers Saale and Muld, near the confluence of the Playffe, the Elster, and the Barde. E. Long. 12. 55. N. Lat. 51. 19.

LEITH, (anciently called *Inverleith*), the port of Edinburgh, is seated on the banks of the Forth, about two miles from the capital. It is built on both sides of the harbour; by which it is divided into two parts, called *North* and *South Leith*. The communication between these was by a stone-bridge of three arches founded by Robert Ballentyne abbot of Holyrood-house in 1493, but lately pulled down. The harbour is formed by the conflux of the rivulet called the *Water of Leith* with the Frith of Forth. The depth of water, at neap-tides, is about nine feet; but in high spring-tides, it is about 16 feet. In the beginning of the present century, the town-council of Edinburgh improved the harbour at an enormous expence, by extending a stone-pier a considerable way into the sea. In 1777, they erected an additional stone quay towards its west side. Upwards of 100 ships could then lie conveniently in this port; but it can now admit of a much greater number, in consequence of having lately undergone great improvements. In order to enlarge it, the old bridge has been pulled down, and an elegant draw-bridge erected a little to the eastward of the former site. It is accommodated with wet and dry docks, and other conveniences for ship building, which is there carried on to some extent, as vessels come to Leith to be repaired from all parts of Scotland. A new basin and docks

Leipsic,
Leith.

Leith.

are proposed to be added; which, when completed, will render this a very capacious, as well as a most safe and convenient, station for trading vessels. And the road of Leith affords good anchorage for ships of the greatest size.

The harbour of Leith was granted to the community of Edinburgh by king Robert in 1329; but the banks of the harbour belonged to Logan of Restalrig, a turbulent and ambitious baron, from whom the citizens were under the necessity of purchasing the bank or waste piece of ground between the houses and the rivulet above mentioned, for the purposes of wharfs, as well as for erecting shops and granaries, neither of which they could do before. As the situation of Leith, however, is much more convenient for trade than that of Edinburgh, which is two miles distant from the harbour, the inhabitants of the metropolis have fallen upon various methods of restraining the trade of Leith. They first purchased, from Logan of Restalrig, an exclusive privilege of carrying on every species of traffic in the town of Leith, and of keeping warehouses and inns for the entertainment of strangers in that place; and in 1483, the town-council prohibited, under severe penalties, the citizens of Edinburgh from taking into partnership any inhabitant of Leith. To free themselves from this oppression, the people of Leith purchased the superiority of their town from Logan of Restalrig for 3000 l. Scots, and it was erected into a burgh of barony by the queen-regent, Mary of Lorraine, who promised to erect it into a royal borough. She died, however, before this was accomplished; and upon her death, Francis and Mary, in violation of the private rights of the people of Leith, re-sold the superiority to the town of Edinburgh, to whom it has since been confirmed by grants from successive sovereigns.

On the breaking out of the disturbances at the Reformation, the queen-regent caused the whole town to be fortified, that the French troops might have a more ready inlet into the kingdom. It was accordingly surrounded with a wall, having eight bastions: but this wall went no farther than the street now called *Bernard's nook*, because at that time the sea came up the length of that street; and even as late as 1623, a house situated exactly where the weigh-house is at present, is described as bounded on the east by the "sand of the sea-shore." All that space, therefore, on which the row of houses nearest the harbour of Leith now stands, has been gained since that time from the sea.

In the time of Charles I. a fortification was erected at Leith by the Covenanters. Cromwell built a strong fort at the place still called the *citadel* in North-Leith; but it was pulled down on the restoration of Charles II. by order of government. A gate with portcullices are the present remains of that fortification.—A palace also appears to have formerly stood here, situated at the north-east boundaries of the former town, on the spot where the present weigh-house stands. It was destroyed by the English in the time of Henry VIII. The remains of this building, called the *king's work*, with a garden, and a piece of waste land that surrounded it, was erected into a barony by James VI. and bestowed upon Bernard Lindsay of Lochill, groom of the chamber to that prince. He is said to have fully repaired, and appropriated it to the recreations

of the court; but it soon fell from its dignity, and became subservient to much more ignoble purposes. The tennis court was converted into a weigh-house; and the street which bounds it still bears the name of the founder, from whom it is called *Bernard's nook*.

As Leith lay within the parish of Restalrig, the church of Restalrig was of consequence the place of worship for the inhabitants of Leith; but in 1650 the Assembly ordered that church to be pulled down as a monument of idolatry, so that Leith wanted a parish-church for upwards of 50 years. During that period they resorted for worship to a large and beautiful chapel already built, and dedicated to St Mary, which is now called *South Leith church*; and in 1609 this chapel was by authority of parliament declared to be the parish church of the district; so that Restalrig is now in the parish of South-Leith, as the latter was formerly in that of Restalrig. In 1772, a Chapel of Ease was erected by the inhabitants, as the parish-church was insufficient to contain the number of hearers. There are also an episcopal and several dissenting congregations in Leith. North-Leith is a parish by itself, and the church is situated at what was the north end of the old bridge.

Though a very great trade is carried on between Leith and many foreign ports, yet the articles of export and import fluctuate so much, that it would be useless to enter into any details either as to species or quantity. In general, the imports from France, Spain, and Portugal, are wines, brandy, and fruits; from the West Indies and America, rice, indigo, rum, sugar, and logwood. But the principal foreign trade of Leith is by the eastern seas, for the navigation of which it is most happily situated. To Germany, Holland, and the Baltic, it exports lead, glass-ware, linen and woollen stuffs, and a variety of other goods; and from thence it imports immense quantities of timber, oak-bark, hides, linen rags, pearl ashes, flax, hemp, tar, and many other articles. The Baltic trade, however, is at present rather on the decline; the great extent to which it was carried on for some years past having been chiefly owing to the vast increase of new buildings in Edinburgh and its environs. The coasting trade is at present the principal branch that employs the shipping at Leith, including those which belong to other ports on the Forth, which are said to make about one fourth of the tonnage of the Leith vessels. The ships employed in the London trade are in general of a large size, elegantly constructed, and furnished with excellent accommodations for passengers. They make at an average four voyages up and down in the year. The largest ships in this port, however, are those employed in the Greenland fishery.

The shipping at Leith renders the demand for ropes, sail-cloth, and cordage, very considerable. There were lately three different companies who carried on these manufactures, besides some private persons who dealt less considerably. The first of those companies was established in the beginning of the present century; and 20 years ago made, it is said, larger dividends among the partners than any trading or manufacturing company in the nation. There are only three companies at present, but a number of private manufacturers.

In the middle of the last century, a manufactory of green glass was established at the citadel of Leith. Chopin bottles were sold at 4s. 6d. per dozen, and other

Leith.

Leith.

other bottles in proportion. Soon afterwards this article was manufactured also in North Leith; and, in 1707, chopin bottles were sold at 2s. 6d. per dozen, and so proportionably. That house being burnt down in 1746, a new house was built the following year on South-Leith sands, and an additional one in 1764. The annual expence of both houses was between 8000 l. and 9000 l. Another was afterwards added, and three more have lately been erected. They manufacture not only bottles, but also window-glass and crystal-ware of all sorts.

Manufactures of soft soap and candles were erected by St Clair of Roslin and some merchants; the former in 1750, and the latter in 1770: a manufacture of hard soap was also established in 1770. Besides these, there are a considerable manufacture for making cards with which wool is combed, a great carpet-factory, and several iron-forges. There was also a sugar-house; but it has been given up, as has likewise Mr St Clair's soap-work.

The inhabitants of Leith were divided into four classes; and these erected into corporations by the queen dowager, Mary of Lorraine. These were mariners, maltmen, trades, and traffickers. The first of these consisted of shipmasters and sailors; the second, of malt-makers and brewers; the third, of coopers, bakers, smiths, wrights, &c.; and the fourth, of merchants and shop-keepers. Of these corporations the mariners are the most considerable. They obtained from Mary of Lorraine a gift, afterwards ratified by William and Mary, of one penny duty on the ton of goods in the harbour of Leith, for the support of their poor. This duty, which not many years ago did not amount to 40 l. a-year, now rises from 70 l. to 120 l. as trade flourishes. For the same purpose the shipmasters also pay 6d. a-pound out of their own wages annually; and the like sum they give upon the wages of their sailors. From these and other donations, this corporation is enabled to pay from 600 l. to 700 l. a-year to their poor. Opposite to South-Leith church there is a large house belonging to them, called the *Trinity-hospital*, because originally consecrated to the Holy Trinity. In this house some of their poor used formerly to be maintained, but now they are all out-pensioners. Besides other apartments, this hospital contains a large handsome hall for the meetings of the corporation. Adjoining to the school-house there is another hospital, called *king James's hospital*; and bears upon its front the cypher and arms of that prince. Here some poor women belonging to the other corporations are maintained.

As the town of Leith was very ill supplied with water, and the streets were neither properly cleaned nor lighted, an act for remedying these defects was passed in the year 1771, appointing certain persons from among the magistrates of Edinburgh, lords of session, inhabitants of Edinburgh and Leith, and members of the corporations of Leith, *commissioners of police*; empowering them to put this act in execution; and, for that purpose, to levy a sum not exceeding 6d. in the pound upon the valued rent of Leith. The great change which has since taken place on the streets of Leith shows the good effect of this act, and that it has

both been judiciously prepared, and attentively executed.

Leith is computed to contain about thirteen thousand inhabitants. The government of the town is vested in a magistrate sent from Edinburgh, having admiral's power; and in two residing bailies elected, by the town-council.

LEITRIM, a county of Ireland, situated in the province of Connaught, is bounded on the north by the bay of Donnegal and part of Fermanagh, on the south and west by Sligo and Roscommon, and on the east by Fermanagh and Cavan. It is a fruitful county; and, though mountainous, produces great herds of black cattle; but has few places of note. It contains 206,830 Irish plantation acres, 21 parishes, 5 baronies, and 2 boroughs, and sends six members to parliament; it is about 42 miles long, and 17 broad.

LEITRIM, the shire town of the county of that name, is pleasantly situated on the banks of the river Shannon, about 80 miles from Dublin; and appears to have been formerly a place of some note. St Mac Liegus, son of Cernac, was bishop here: and his festival is observed on the 8th of February. It has six fairs in the year.

LEIXLIP, a post and fair town of Ireland pleasantly situated in the county of Kildare and province of Leinster, about 8 miles from Dublin. Near it are the ruins of the church and castle of Confy. The castle of Leixlip is beautifully seated on the banks of the river Liffey; it is a fine edifice with large and pleasant gardens, at one side of which is a fine waterfall called the *Salmon-leap*, there being plenty of that species of fish hereabouts. A mile from this is Castletown, the magnificent seat of Mr Conolly. There are three fairs here in the year.

LELAND (John), the great English antiquary, was born in London about the year 1507. Having lost his parents when a child, he had the good fortune to find a friend and patron in one Mr Thomas Miles, who placed him in St Paul's school, of which the grammarian Lilye was master. From that school he was sent to Christ's college, Cambridge; whence, after some years residence, he removed to All-Souls, Oxford. From Oxford he went to Paris, chiefly with a design to study the Greek language, which at that time was but little understood in this kingdom. On his return to England he took orders, and was soon appointed chaplain to king Henry VIII. who also gave him the rectory of Poppeling, in the marshes of Calais, appointed him his librarian, and in 1533 granted to him, by commission under the great seal, the office of king's antiquary; an office never borne by any other person before or since. By this commission he was empowered to search for ancient writings in all the libraries of colleges, abbeys, priories, &c. in his majesty's dominions. We are told by his last biographer, that he renounced popery soon after his return to England; but he quotes no authority. Be this as it may, in 1536, he obtained a dispensation to keep a curate at Poppeling, and set out on his journey in search of antiquities. In this employment he spent six years, during which time he visited every part of England where monuments of antiquity were

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Leland.

Leland. to be expected. After his return, in the year 1542, he was presented by the king to the rich rectory of Haseley in Oxfordshire; and in the following year he gave him a prebend of King's College, now Christ's church, in Oxford, besides that of East and West Knowle, in the cathedral of Salisbury. Being thus amply provided for, he retired to a house of his own in the parish of St Michael le Querne in London, where he spent six years more in digesting the materials which he had collected. King Henry VIII. died in 1547; and in a short time after, poor Leland lost his senses. He was at first seized with a deep melancholy, which was succeeded by a total deprivation of his reason. In this dreadful state he continued till the beginning of the year 1552, when he was happily released by death. He was buried in the church of St Michael le Querne, which was destroyed by the fire in 1666. Mr Leland is remembered as a man of great learning, an universal linguist, an excellent Latin poet, and a most indefatigable and skilful antiquary. On his death, king Edward VI. gave all his papers to Sir John Checke, his tutor and Latin secretary of state. The king dying, and Sir John being obliged to leave the kingdom, he gave four folio volumes of Leland's collections to Humphrey Patefey, Esq; which, in 1612, were by his son given to William Burton, author of the history of Leicestershire. This gentleman also became possessed of the Itinerary in 8 vols folio, which, in 1632, he deposited in the Bodleian library. Many other of Leland's manuscripts, after the death of Sir John Checke, fell into the hands of lord Paget, Sir William Cecil, and others, which at last fortunately came into the possession of Sir John Cotton. These manuscripts were of great use to all our subsequent antiquarians, particularly Camden, Sir William Dugdale, Stowe, Lambard, Dr Batteley, Ant. Wood, &c. His Itinerary throughout most parts of England and Wales, was published by Mr Hearne, 9 vols 8vo. in 1710-11; as was also his *Collectanea de rebus Britannicis*, 6 vols 8vo, in 1715.

LELAND (John), well known by his writings in defence of Christianity, was born at Wigan in Lancashire in 1691, of eminently pious and virtuous parents. They took the earliest care to season his mind with proper instructions; but, in his sixth year, the small-pox deprived him of his understanding and memory, and expunged all his former ideas. He continued in this deplorable state near a twelvemonth, when his faculties seemed to spring up anew; and though he did not retain the least traces of any impressions made on him before the distemper, yet he now discovered a quick apprehension and strong memory. In a few years after, his parents settled in Dublin, which situation gave him an easy introduction to learning and the sciences. When he was properly qualified by years and study, he was called to be pastor to a congregation of Protestant dissenters in that city. He was an able and acceptable preacher, but his labours were not confined to the pulpit. The many attacks made on Christianity, and by some writers of no contemptible abilities, engaged him to consider the subject with the exactest care, and the most faithful examination. Upon the most deliberate inquiry, the truth and divine original, as well as the excellence and importance of Christianity, appearing to him with great lustre, he published answers to several

authors who successively appeared in that cause. He was indeed a master in this controversy; and his history of it, styled "A View of the Deistical Writers that have appeared in England in the last and present Century, &c." is very greatly and deservedly esteemed. In the decline of life he published another laborious work, intitled, "The Advantage and Necessity of the Christian Revelation, shown from the State of Religion in the ancient Heathen World, especially with respect to the Knowledge and Worship of the One true God; a Rule of moral Duty, and a State of future Rewards and Punishments; to which is prefixed, a long and preliminary Discourse on Natural and Revealed Religion," 2 vols 4to. This noble and extensive subject, the several parts of which have been slightly and occasionally handled by other writers, Leland has treated at large with the greatest care, accuracy, and candour. And, in his "View of the Deistical Writers," his cool and dispassionate manner of treating their arguments, and his solid confutation of them, have contributed more to depress the cause of atheism and infidelity, than the angry zeal of warm disputants. But not only his learning and abilities, but also his amiable temper, great modesty, and exemplary life, recommended his memory to general esteem and affection. He died in 1766.

LELEGEIS, the ancient name of Miletus, from the Leleges, the first inhabitants of it.

LELEGES, anciently a people of Asia, of Greek original; the name denoting "a collection of people:" they first occupied the islands; then passing over to the continent, they settled partly in Mysia on the Sinus Adramyttenus, and partly in that part of Ionia next Caria.—There were Leleges also of Laconia. These went to the Trojan war with Altes their king. Achilles plundered their country, and obliged them to retire to the neighbourhood of Halicarnassus, where they fixed their habitation.—The inhabitants of Laconia and of Megara also bore this name for some time, from Lelex one of their kings.

LELEX, an Egyptian who came with a colony to Megara, where he reigned about 200 years before the Trojan war. His subjects were called from him *Leleges*.—Also the name of a Greek who was the first king of Laconia in Peloponnesus. His subjects were also called *Leleges*, and the country where he reigned *Lelegia*.

LELY (Sir Peter), an excellent painter, born in Westphalia in the year 1617. He was placed as a disciple with Peter Grebber at Haerlem; and in 1641 was induced, by the encouragement Charles I. gave to the fine arts, to come to England. He became state-painter to Charles II. who knighted him; and being as complete a gentleman as a painter, that king took pleasure in conversing with him. He practised portrait-painting, and succeeded so well that he was preferred before all his cotemporaries. Hence he became perpetually involved in business; so that he was thereby prevented from going into Italy to finish the course of his studies, which in his younger days he was very desirous of: however, he made himself amends, by getting the best drawings, prints, and paintings, of the most celebrated Italian masters. Among these were the better part of the Arundel Collection, which he had from that family, many whereof were sold after his death at prodigious

Leleges
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Lely.

Lemberg,
Lemery.

gious rates, bearing upon them his usual mark of P. L.—The advantage he reaped from this collection, the best chosen of any one of his time, appears from that admirable style which he acquired by daily conversing with the works of those great masters. In his correct draught and beautiful colouring, but more especially in the graceful airs of his heads, and the pleasing variety of his postures, together with the gentle and loose management of the draperies, he excelled most of his predecessors. Yet the critics remark, that he preserved in almost all his female faces a drowsy sweetness of the eyes peculiar to himself; for which he is reckoned a mannerist. The hands of his portraits are remarkably fine and elegantly turned; and he frequently added landscapes in the back-grounds of his pictures, in a style peculiar to himself, and better suited to his subject than most men could do. He excelled likewise in crayon-painting. He was familiar with, and much respected by, persons of the greatest eminence in the kingdom. He became enamoured of a beautiful English lady, to whom he was some time after married; and he purchased an estate at Kew in the county of Surrey, to which he often retired in the latter part of his life. He died of an apoplexy in 1680 at London; and was buried at Covent-garden church, where there is a marble monument erected to his memory, with his bust, carved by Mr Gibbons, and a Latin epitaph, written, as is said, by Mr Flatman.

LEMBERG, a town of Poland, capital of Red Russia, seated in the palatinate of Lemberg, on the river Pelteu. It is pretty well fortified, and defended by two citadels, one of which is seated on an eminence without the town. The square, the churches, and the public buildings, are magnificent; and it is a large and rich trading place. It has a Roman catholic archbishop, and an Armenian as well as a Russian bishop; but the Protestants are not tolerated. This city was reduced to the last extremity by the rebel Cossacs and Tartars, and was forced to redeem itself with a large sum of money. In 1672, it was besieged in vain by the Turks; but in 1704, was taken by storm by Char. XII. of Sweden. E. Long. 24. 46. N. Lat. 49. 51.

LEMERY (Nicholas), a celebrated chemist, born at Rouen in Normandy in 1645. After having made the tour of France, he, in 1672, commenced an acquaintance with M. Martyn apothecary to Monsieur the Prince; and performed several courses of chemistry in the laboratory of this chemist at the Hotel de Conde; which brought him to the knowledge and esteem of the prince. He provided himself at length with a laboratory of his own, and might have been made a doctor of physic; but he chose to continue an apothecary, from his attachment to chemistry, in which he opened public lectures; and his confluence of scholars was so great as scarcely to allow him room to perform his operations. The true principles of chemistry in his time were but ill understood; Lemery was the first who abolished the senseless jargon of barbarous terms, reduced the science to clear and simple ideas, and promised nothing that he did not perform. In 1681, he was disturbed on account of his religion; and came to England, where he was well received by Charles II.: but affairs not promising him the same tranquillity, he returned to France, and sought for shelter under a Doctor's degree; but the revocation of the edict of Nantz

Nº 180.

drove him into the Romish communion to avoid persecution. Hethen became associate chemist and pensionary in the royal academy of sciences, and died in 1715. He wrote, A course of chemistry; An universal pharmacopœia; An universal treatise of drugs; and, A treatise on antimony.

LEMING, in zoology. See Mus.

LEMMA, (of λαμβανω, "I assume,") in mathematics, denotes a previous proposition, laid down in order to clear the way for some following demonstration; and prefixed either to theorems, in order to render their demonstration less perplexed and intricate; or to problems, to make their resolution more easy and short. Thus, to prove a pyramid one third of a prism, or parallelopiped, of the same base and height with it, the demonstration whereof in the ordinary way is difficult and troublesome; this lemma may be premised, which is proved in the rules of progression, that the sum of the series of the squares, in numbers in arithmetical progression, beginning from 0, and going on 1, 4, 9, 16, 25, 36, &c. is always subtriple of the sum of as many terms, each equal to the greatest; or is always one-third of the greatest term multiplied by the number of terms. Thus, to find the inflection of a curve line, this lemma is first premised, that a tangent may be drawn to the given curve in a given point.

So in physics, to the demonstration of most propositions, such lemmata as these are necessary first to be allowed: that there is no penetration of dimensions; that all matter is divisible; and the like. As also in the theory of medicine, that where the blood circulates, there is life, &c.

LEMNA, DUCK-MEAT, in botany; a genus of the diandria order, belonging to the monœcia class of plants; and in the natural method ranking under the 54th order, *Miscellanea*. The male calyx is monophyllous; there is no corolla; the female calyx monophyllous; there is no corolla, one style; the capsule unilocular. There are three species, all natives of Britain, growing frequently in ditches and the shallow parts of stagnant waters. All of them are acceptable food for ducks and geese.

LEMNIAN-EARTH, *Terra Lemnia*, a medicinal, astringent sort of earth, of a fatty consistence and reddish colour; used in the same cases as BOLE. It has its name from the island of Lemnos, whence it is chiefly brought. Many form it into round cakes, and impress a seal upon it; whence it is also called *terra sigillata*. A sort is said to be imported from Senegal, which is not properly an earth, though so called, but composed of the dried pulp of the fruit of the BAOBAB.

LEMNIUS (Lævinus), a famous physician, born at Ziric-Zee in Zealand, in 1505. He practised physic with applause; and after his wife's death being made priest, became canon of Ziric-Zee, where he died in 1560. He left several esteemed works, the principal of which is intitled *De occultis naturæ miraculis*.

LEMNOS (anc. geog.), a noble island in the Ægean sea, near Thrace, called also *Dipolis*, from its consisting of two towns. The first inhabitants were the Pelasgi, or rather the Thracians, who were murdered by their wives. After them came the children of the Lemnian widows by the Argonauts, whose descendants were at last expelled by the Pelasgi, about 1100 years before the Christian era. Lemnos is about 112 miles in circumference according to Pliny; who says, that it is of-

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Leming
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Lemnos.



1. Tailless Maucauco. 2. Loris. 3. Mongooz. 4. Ruffed Maucauco. 5. Ring tailed Maucauco. 6. Flying Maucauco. 7. Little Maucauco. 8. Tarsier.

A. Bell Pin. Wal. Sculptor fecit.

Lemna
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Lemur.

ten shadowed by mount Athos, though at the distance of 87 miles. It has been called *Hipsipyle* from queen Hipsipyle. It is famous for a certain kind of earth or chalk called *terra Lemnia*, or *terra sigillata* from the seal or impression which it can bear, and which is used for consolidating wounds. As the inhabitants were blacksmiths, the poets have taken occasion to fix the forges of Vulcan in that island, and to consecrate the whole country to his divinity. Lemnos is also celebrated for a labyrinth, which, according to some traditions, surpassed those of Crete and Egypt. Some remains of it were still visible in the age of Pliny. The island of Lemnos was reduced under the power of Athens by Miltiades.

LEMON, in botany. See CITRUS.

LEMON-Island, one of the Skellig-islands so called; situated off the coast of the county of Kerry, in the province of Munster in Ireland. It is rather a round rock, always above water, and therefore no way dangerous to ships. An incredible number of gannets and other birds breed here; and it is remarkable that the gannet nestles no where on the southern coasts of Ireland but on this rock, though many of them are seen on all parts of our coasts on the wing. There is another rock on the northern coast of Ireland remarkable for the same circumstance.

LEMONADE, a liquor prepared of water, sugar, and lemon or citron juice; it is very cooling and grateful.

LEMOVICES, a people of Aquitania, situated between the Bituriges Cubi to the north, the Arverni to the east, the Cadurci to the south, and the Pictones to the west. Now the *Limosin* and *La Marche*.

LEMUR, the MAUCAUCO, in zoology, a genus of quadrupeds belonging to the order of primates, the characters of which are these: There are four fore-teeth in the upper jaw, the intermediate ones being remote; and six long, compressed, parallel teeth in the under jaw; the dog-teeth are solitary, and the grinders are somewhat lobated.

1. The *tardigradus*, or tail-less maucauco, a small animal found in Bengal and the island of Ceylon. It is of a very singular construction, and perhaps longer in proportion to its thickness than any other quadruped. The head is roundish, with a sharp-pointed nose, and small ears: the body is covered with short, soft, and silky ash-coloured and reddish fur: the toes are naked, and the nails flat; excepting those of the inner toe on each hind foot, which are long, crooked, and sharp. The length of the animal from the nose to the rump is sixteen inches.—It lives in the woods, and feeds on fruits: In a tame state, it appears to be fond of eggs, and it would also greedily devour small birds. This animal has the inactivity of the sloth, and creeps slowly along the ground: it is very tenacious of its hold, and makes a plaintive noise.

A variety of the above, or according to Mr Pennant a distinct species, is,

2. The *loris* of Buffon, or *tardigradus* of Seba. It has a produced dog-like visage, with the forehead high above the nose: the ears are large, thin, and rounded: the body is slender and weak: limbs are very long and slender; and thumb on each foot is more distinct, and separate from the toes: the hair on the body is universally short, and delicately soft; the colour on the

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upper part tawny, beneath whitish. In length, from the tip of the nose to the anus, the animal is only eight inches. It differs totally in form and in nature from the preceding; and notwithstanding the epithet of *tardigradus* or *sloth* given in Seba, it is very active, and ascends trees most nimbly. It has the actions of an ape; and, if we credit Seba, the male climbs the trees, and tastes the fruits before it presents them to its mate.

3. The mongooz, or woolly maucauco, inhabits Madagascar, and the islands to the eastward as far as Celebes. It is about the size of a cat, and has the whole upper part of the body covered with long, soft, and thick fur, a little curled or waved, of a deep brownish ash-colour; the tail is very long, covered with the same sort of hair, and of the same colour. It lives on fruits, turns its tail over its head to protect it from rain, and sleeps on trees; it is very sportive and good-natured, and very tender.

4. The catta, or ring-tailed maki, inhabits Madagascar and the neighbouring isles. It is of the size of a cat; has the hair on the top and hind-part of the head of a deep ash-colour, the back and sides reddish, the belly and insides of the limbs white; all its hair is very soft, close and fine, and erect like the pile of velvet; the tail is twice the length of the body. It is very good natured, and has all the life of a monkey, without its mischievous disposition; it is very cleanly, and has a weak cry. In a wild state they go in troops of 30 or 40, and are easily tamed when taken young.

5. The *caudatus-niger*, or ruffed maucauco, (the *Vari* of Buffon), is also an inhabitant of Madagascar. It is somewhat larger than the last, and has long hair standing out round the sides of the head like a ruff; a long tail; the colour of the whole animal generally black, but sometimes white spotted with black. In a wild state, it is very fierce; and makes such a violent noise in the woods, that the cries of two might be easily mistaken for the noise made by a hundred.

6. The *volans*, or flying maucauco, resembles a bat: being furnished with a strong membrane like that animal, by which it is enabled to fly. It inhabits the country about Guzarat, the Molucca isles, and the Philippines; feeds on the fruits of the trees, and is very distinct both from the bat and flying squirrel. Its history, however, is very little known.

7. The *tarsier* of Buffon (ranked by Mr Pennant under this genus) has a pointed visage; slender nose, bilobated at the end: eyes large and prominent: ears erect, broad, naked, semitransparent, an inch and a half long, with a tuft of hairs between them on the top of the head, and long hairs on each side of the nose and on the upper eye-brow. In each jaw are two cutting and two canine teeth; which form an exception in this genus. There are four long slender toes and a distinct thumb on each foot; the thumbs on the hind feet very broad and greatly dilated at their ends: the tail is almost naked; the greater part round and scaly like that of a rat, but growing hairy towards the end, which is tufted. The penis is pendulous; and the scrotum and testicles are of a vast size in proportion to the animal. The length of the animal from nose to tail is near six inches; to the hind toes eleven and a half, the hind legs, like those of the jerboa, being of a great length;

Lemures
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Lena.

length; the tail is nine inches and a half long. It inhabits the remotest islands of India, especially Amboina; and is called by the Macassars *podje*.

8. The little maucauco has a rounded head, sharp nose, long whiskers; two canine teeth in each jaw; four cutting teeth in the upper jaw, six in the lower: seven grinders on each side; the nearest sharp, the more distant lobated: the ears are large, roundish, naked, and membranaceous; the eyes very large and full. The toes are long, and of unequal lengths; the ends round; the nails round, and very short; except that of the first toe, which is long and sharp: the tail is hairy, of the length of the body, and prehensile. The animal is rather less than the black rat; and, in Mr Pennant's opinion, seems to be the same which Buffon calls *le rat de Madagascar*. It is supposed to live in the palm-trees, and feed on fruits. It holds its food in its fore-feet like squirrels; is lively, and has a weak cry; and when it sleeps, it rolls itself up.

There are three or four other species; those above described are figured on Plate CCLXVIII.

LEMURES, in antiquity, sprites or hobgoblins; restless ghosts of departed persons, who return to terrify and torment the living.

These are the same with *larvæ*, which the ancients imagined to wander round the world, to frighten good people, and plague the bad. For which reason at Rome they had *lemuria* or feasts instituted to appease the manes of the defunct. See LARES.

Apuleius explains the ancient notion of manes thus: the souls of men released from the bands of the body, and freed from performing their bodily functions, become a kind of dæmons or genii, formerly called *lemures*. Of these *lemures*, those that were kind to their families were called *lares familiares*; but those who, for their crimes, were condemned to wander continually, without meeting with any place of rest, and terrified good men, and hurt the bad, are vulgarly called *larvæ*.

An ancient commentator on Horace mentions, that the Romans wrote *lemures* for *remures*; which last word was formed from Remus, who was killed by his brother Romulus, and who returned to earth to torment him.

But Apuleius observes, that in the ancient Latin tongue *lemures* signifies the soul of a man separated from the body by death.

LEMURIA, or LEMURALIA, a feast solemnized at Rome on the 9th of May, to pacify the manes of the dead or in honour of the lemures.—It was instituted by Romulus, to appease the ghost of his murdered brother Remus, which he thought was continually pursuing him to revenge the horrid crime.—The name *lemuria* is therefore supposed to be a corruption of *Remuria*, i. e. the feast of Remus. Sacrifices continued for three nights, the temples were shut up, and marriages were prohibited during the solemnity. A variety of whimsical ceremonies were performed, magical words made use of, and the ghosts desired to withdraw, without endeavouring to hurt or affright their friends above ground. The chief formalities were ablution, putting black beans into their mouths, and beating kettles and pans, to make the goblins keep their distance.

LENA, a great river of Siberia in Asia, which

takes its rise in N. Lat. 52. 30. and E. Long. 124. 30. from Ferro. After traversing a large tract of land, it divides itself into five branches about Lat. 73°. Three of these run westward, and two eastward, by which it discharges itself into the Icy Sea. Its three western mouths lie in 143° E. Long. from Ferro, but the eastern ones extend to 153. The current is every where slow, and its bed entirely free from rocks. The bottom is sandy, and the banks are in some places rocky and mountainous. Sixteen large rivers fall into the Lena during its course to the northern ocean.

LENÆA, a festival kept by the Greeks in honour of Bacchus, at which there was much feasting and Bacchanalian jollity, accompanied with poetical contentions, and the exhibition of tragedies. The poor goat was generally sacrificed on the occasion, and treated with various marks of cruelty and contempt, as being naturally fond of browsing on the vine shoots.

LENFANT (James), a learned French writer born in 1661. After studying at Saumur, he went to Heidelberg, where he received imposition of hands for the ministry in 1684. He discharged the functions of this character with great reputation there, as chaplain of the electress dowager Palatine, and pastor in ordinary to the French church. The descent of the French into the Palatinate obliged our author to depart from Heidelberg in 1688. He went to Berlin, where the elector Frederic, afterward king of Prussia, appointed him one of the ministers. There he continued 39 years, distinguishing himself by his writings. He was preacher to the queen of Prussia, Charlotta Sophia; and after her death, to the late king of Prussia. In 1707 he took a journey to England and Holland, where he had the honour to preach before Queen Anne; and might have settled in London, with the title of *chaplain to her majesty*. In 1712 he went to Helmstadt, in 1715 to Leipzig, and in 1725 to Breslaw, to search for rare books and MSS. It is not certain whether it was he that first formed the design of the *Bibliothèque Germanique*, which began in 1720; or whether it was suggested to him by one of the society of learned men, which took the name of *Anonymous*, and who ordinarily met at his house. He died in 1728. His principal works are, 1. The History of the Council of Constance, 2 vols 4to. 2. A History of the Council of Pisa, 2 vols 4to. 3. The New Testament translated from the Greek into the French, with Notes by Beaufobre and Lenfant, 2 vols 4to. 4. The History of Pope Joan, from Spanheim's Latin dissertation. 5. Several pieces in the *Bibliothèque Choisie*, *La Republic des Lettres*, *La Bibliothèque Germanique*, &c.

LENGLÉT (Nicholas du Fresnoy, l'abbé), born at Beauvais in France, 1674, was a most fertile and useful French author on a variety of subjects, historical, geographical, political, and philosophical. The following deserve particular notice: 1. A Method of Studying History, with a Catalogue of the Principal Historians of every age and country, published in 1713; a work which established his reputation as an historical writer: it was translated into most of the modern languages, particularly our own, with considerable improvements, by Richard Rawlinson, LL.D. and F.R.S. and published at London in 1730, in 2 vols 8vo. 2. A Copious Abridgment of Universal History.

Lenæa
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Lenglet.

Length
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Lenox.

Lenox,
Lens.

History and Biography, in chronological order, under the title of *Tablettes chronologiques*; which made its first appearance at Paris in 1744, in 2 vols small 8vo, and was universally admired by the literati in all parts of Europe. The author attended with great candour, as every writer ought, to well-founded judicious criticisms. In future editions he made several alterations and improvements, and from one of these, we believe that of 1759, an English translation was made, and published at London in 1762, in 2 vols large 8vo. Du Fresnoy died in 1755: the Paris edition of 1759 was printed from the author's corrected copy; and the impression being sold off, another edition appeared in 1763, with considerable improvements by an unknown editor: to the biographical part, a great number of names of respectable persons are added, not to be found in the former edition; and it has this superior advantage in the historical parts, that the general history is brought down to the year 1762. Du Fresnoy, however, has loaded his work with catalogues of saints, martyrs, councils, synods, heresies, schisms, and other ecclesiastical matters, fit only for the libraries of Popish convents and seminaries.

LENGTH, the extent of any thing material from end to end. In duration, it is applied to any space of time, whether long or short.

LENGTHENING, in ship-carpentry, the operation of cutting a ship down across the middle, and adding a certain portion to her length. It is performed by sawing her planks asunder in different places of her length, on each side of the midship frame, to prevent her from being too much weakened in one place. The two ends are then drawn apart to a limited distance; which must be equal to the proposed addition of length. An intermediate piece of timber is next added to the keel, upon which a sufficient number of timbers are erected, to fill up the vacancy produced by the separation. The two parts of the keelson are afterwards united by an additional piece which is scored down upon the floor-timbers, and as many beams as may be necessary are fixed across the ship in the new interval. Finally, the planks of the side are prolonged so as to unite with each other; and those of the ceiling refitted in the same manner; by which the whole process is completed.

LENEICIA, a strong town of Poland, and capital of a palatinate of the same name, with a fort seated on a rock. The nobility of the province hold their diet here. It stands in a morass on the banks of the river Bura, in E. Long. 19. 25. N. Lat. 52. 12.

LENOX or DUNBARTON Shire, a county of Scotland, stretching 24 miles in length and 20 in breadth, is bounded on the south by the river and frith of Clyde, on the west by Lochlong and Argyleshire, on the north by the Grampian hills, and on the east by Monteith and Stirlingshire. Great part of this county consists of hills and heaths, fit for nothing but pasture and sport; even in the lower lands, the soil is not extremely fertile: yet the face of the country is agreeably diversified with hill, dale, mountain, heath, streams, lakes, woods, and fields of corn: the shire is likewise beautified with a great number of agreeable seats and plantations, belonging to gentlemen of fortune. Part of this county is washed by the river Clyde in its course to the sea: even at the castle of Dunbar-

ton, the breadth of it amounts to two miles at high-water, and it continues extending in width and depth until it joins the ocean. From the mouth of the Clyde, the two bays of Lochlong and Lochfyn make large indentations in the shire of Dunbarton. The only river of any consideration that runs through this county, is the Leven, the Lelanonius of Ptolemy, otherwise called *Levinia*, the Latin name for Lenox. The river Leven is a pure transparent pastoral stream, that warbles over a bed of pebbles, through a delightful vale adorned with farms, seats, woods, and plantations. It derives its origin from the great lake called *Lochlomond*, of which indeed it is the overflowing, and, after a delightful meandering course of five or six miles, disembogues itself into the Clyde at the castle of Dunbarton. But the greatest curiosity of this county is Lochlomond itself, a vast body of fresh water, supplied by subterraneous springs and rivulets, surrounded with huge mountains, extending 25 miles in length, and in some places five miles in breadth, incredibly deep in every part, interspersed with 24 verdant isles, some of which are stocked with red deer, and inhabited. Nothing can be more wildly romantic than this part of the country during the summer-season, on the south side of the lake: the high road runs in some places through natural woods; overhung, on one hand, by steep mountains, covered with flowery heath; and on the other opening in long vistas upon the lake, terminated by green islands that seem to float upon the water. Among the rivers of this shire we shall likewise mention the water of Blane, which, though itself an inconsiderable stream, hath been rendered famous by the birth of George Buchanan, the celebrated Latin poet and historian. He was born on the north side of the lake, not far from the place called *Buchanan*, where we may behold an elegant seat belonging to the duke of Montrose, head of the noble family of Graham, so often distinguished by its loyalty, integrity, and valour. The same part of the country gave birth to the great mathematician and naturalist, Napier, Lord Merchiston, inventor of the logarithms. The title of *Lenox*, with the property of great part of the shire, was heretofore vested in a branch of the royal family of Stuart, with which it was reunited in the person of King James VI. whose father, Henry Lord Darnly, was son to the duke of Lenox. This prince conferred the title upon his kinsman Esme Stuart, son of John Lord d'Aubigney in France: but, his race failing at the death of Charles duke of Lenox and Richmond, and the estate devolving to the crown, King Charles II. conferred both titles on his own natural son by the duchess of Portsmouth; and they are still enjoyed by his posterity. The people of Lenoxshire are chiefly Lowlanders, though in some parts of it divine service is performed in the Erse language. The most numerous clans in this district, are the Macfarlanes, the Colquhouns, and the Buchanans. They generally profess the Protestant faith, according to the Presbyterian discipline; yet some of the gentlemen follow the English ritual. The commonalty are for the most part sober, honest, and industrious; and though they live poorly, are tall, vigorous, and healthy.

LENS, a piece of glass, or any other transparent substance, the surfaces of which are so formed, that

Lent
||
Leo.

the rays of light, by passing through it; are made to change their direction, either tending to meet in a point beyond the lens, or made to become parallel after converging or diverging; or lastly, proceeding as if they had issued from a point before they fell upon the lens. Some lenses are convex, or thicker in the middle; some concave, or thinner in the middle; some plano-convex, or plano-concave; that is with one side flat, and the other convex or concave; and some are called *meniscuses*, or convex on one side and concave on the other. See DIOPTRICS, p. 33

LENT, a solemn time of fasting in the Christian church, observed as a time of humiliation before Easter, the great festival of our Saviour's resurrection.

Those of the Romish church, and some of the Protestant communion, maintain, that it was always a fast of 40 days, and, as such, of apostolical institution. Others think it was only of ecclesiastical institution, and that it was variously observed in different churches, and grew by degrees from a fast of 40 hours to a fast of 40 days. This is the sentiment of Morton, Bishop Taylor, Du Moulin, Daillé, and others.

Anciently the manner of observing lent among those who were piously disposed, was to abstain from food till evening: their only refreshment was a supper; and then it was indifferent whether it was flesh or any other food, provided it was used with sobriety and moderation.

Lent was thought the proper time for exercising, more abundantly, every species of charity. Thus what they spared from their own bodies by abridging them of a meal, was usually given to the poor; they employed their vacant hours in visiting the sick and those that were in prison, in entertaining strangers, and reconciling differences. The imperial laws forbade all prosecution of men in criminal actions, that might bring them to corporal punishment and torture, during the whole season. This was a time of more than ordinary strictness and devotion, and therefore in many of the great churches they had religious assemblies for prayer and preaching every day. All public games and stage-plays were prohibited at this season; as also the celebration of all festivals, birth-days, and marriages, as unsuitable to the present occasion.

The Christians of the Greek church observe four lents: the first commences on the 15th of November; the second is the same with our lent; the third begins the week after Whitsuntide, and continues till the festival of St Peter and St Paul; and the fourth commences on the first of August, and lasts no longer than till the 15th. These lents are observed with great strictness and austerity; but on Saturdays and Sundays they indulge themselves in drinking wine and using oil, which are prohibited on other days.

LENTIL, in botany. See ERVUM.

LENTINI. See LEONTINI.

LENTISCUS, in botany. See PISTACIA.

LEO, in zoology. See FELIS.

LEO, in astronomy, the fifth of the 12 signs of the zodiac. The stars in the constellation *Leo* in Ptolemy's catalogue are 27, besides the informes, which are 8; in Tycho's 30; in the Britannic catalogue 95.

LEO X. whose proper name was John de Medicis, is a pope ever to be remembered by Protestants, as having proved the cause of the reformation begun by Martin Luther. He had been honoured with a cardinal's hat at 14 years of age, and some years after with the dignity of legate by Julius II. He was in that quality in the army which was defeated by the French near Ravenna in 1512, where he was taken prisoner. The soldiers, who had overcome him, showed him such great veneration, that they humbly asked his pardon for gaining the victory, besought him to give them absolution for it, and promised never to bear arms against the pope. When Pope Julius died, Leo was very ill of the venereal disease at Florence, and was carried to Rome in a litter. His hurrying about every night to the cardinals of his faction, occasioned the breaking of his ulcer; and the matter which ran from it exhaled such a stench, that all the cells in the conclave, which were separated only by thin partitions, were poisoned by it. Upon this the cardinals consulted the physicians of the conclave, to know what the matter was. They, being bribed, said the cardinal de Medicis could not live a month; which sentence occasioned his being chosen pope. Thus cardinal de Medicis, then not 30 years of age, was elected pope upon a false information; and as joy is the most sovereign of all remedies, he soon after recovered his health, so that the old cardinals had reason to repent their credulity.—He was better calculated for a temporal prince, being ambitious, politic, luxurious, a connoisseur in the fine arts, and an accomplished fine gentleman: thus qualified, it is no wonder that so young a pontiff, neglecting the true interest of his church, should avail himself of the folly of religious dupes, and publicly sell indulgences to support his prodigality, especially as he was known to disbelieve Christianity itself, which he called *A very profitable fable for him and his predecessors*. In 1517, he published general indulgences throughout Europe (and ordered the priests to recommend them) in favour of those who would contribute any sum towards completing the church of St Peter; and this was the basis of the reformation. (See LUTHER and INDULGENCE.) Leo died in 1521.

It is but justice to add, that to this pope was principally owing the revival of polite literature in Italy. He spared neither pains nor expence in recovering ancient manuscripts, and procuring good editions of them; he favoured the arts and sciences; and gloried in being the patron of learned and ingenious men, who in return have been very lavish in his praise. Mr Pope, in his essay on Criticism, bestows on him these harmonious lines.

But see! each muse in Leo's golden days,
Starts from her trance; and trims her wither'd bays;
Rome's ancient Genius, o'er its ruins spread,
Shakes off the dust, and rears his rev'rend head.
Then Sculpture and her sister Arts revive:
Stones leap to form, and rocks begin to live;
With sweeter notes each rising temple rung;
A Raphael painted, and a Vida sung.

LEO (St), a small but strong town of Italy, in the territory of the church, and duchy of Urbino, with a bishop's see. It is seated on a mountain, near the river Marrechia, in E. Long, 12. 25. N. Lat. 43. 57.

LEOMINSTER, a town of Herefordshire, in England,

Leo
||
Leominster.

Leon. England, seated on the river Lug, which waters the north and east sides of the town, and over which there are several bridges. It is a large, handsome, populous borough; and is a great thoroughfare betwixt South-Wales and London, from which last it is distant 113 measured miles. In King John's reign it was burnt, but soon rebuilt. It was incorporated by Queen Mary, and is governed by a high steward, bailiff, recorder, 12 capital burgeses (out of whom the bailiff is chosen), and a town clerk. Its market is on Friday, and its fairs, which are all noted for horses and black cattle, on February 13th, Tuesday after Midlent-Sunday, May 13th, July 10th, September 4th, and November 1st. The market was on Thursday till it was changed, on a petition from the cities of Hereford and Worcester, complaining of their loss of trade; since which, the vast trade it had in wool and wheat is much lessened. The best flax is said to grow here, and it has been equally noted for the best wheat, barley, and the finest bread. The inhabitants drive a considerable trade not only in the wool, but in gloves, leather, hat-making, &c. and there are several rivers in and about the town on which they have mills and other machines. Near its church are some remains of its priory; and on a neighbouring hill are the ruins of a palace, called to this day Comfort-Castle. It has several good inns, and sends two members to parliament, W. Long. 2. 45. N. Lat. 52. 20.

LEON, an ancient town of France, in Lower Bretagne, and capital of the Lyonnais, with a bishop's see. It is seated near the sea, in W. Long. 3. 55. N. Lat. 48. 41.

LEON, a province of Spain, with the title of a kingdom; bounded on the north by Asturias; on the west by Galicia and Portugal; and on the south by Estremadura and Castile, which also bounds it on the east. It is about 125 miles in length, and 100 in breadth; and is divided into two almost equal parts by the river Duero, or Douro. It produces all the necessaries of life, and Leon is the capital town.

LEON, an ancient and large episcopal town of Spain, and capital of the kingdom of that name, built by the Romans in the time of Galba. It has the finest cathedral church in all Spain. It was formerly more rich and populous than at present, and had the honour of being the capital of the first Christian kingdom in Spain. It is seated between two sources of the river Esra, in W. Long. 5. 13. N. Lat. 42. 55.

LEON (Peter Cieca de), author of the history of Peru. He left Spain his native country at 13 years of age, in order to go into America, where he resided 17 years; and observed so many remarkable things, that he resolved to commit them to writing. The first part of his history was printed at Seville in 1553. He began it in 1541, and ended it in 1550. He was at Lima, the capital of the kingdom of Peru, when he gave the finishing stroke to it, and was then 32 years of age.

LEON de Nicaragua, a town of North America, in New Spain, and in the province of Nicaragua; the residence of the governor, and a bishop's see. It consists of about 1000 houses, and has several monasteries and nunneries belonging to it. At one end of the town is a lake which ebbs and flows like the sea. The town is seated at the foot of a volcano, which renders

it subject to earthquakes. It was taken by the buccaneers in 1685, in fight of a Spanish army who were six to one. W. Long. 86. 10. N. Lat. 12. 25.

LEONARD DE NOBLET (St.) an ancient town of France, in the province of Guienne and territory of Limosin, with a considerable manufactory of cloth and paper. It is seated on the river Vienne, in E. Long. 1. 35. N. Lat. 45. 50.

LEONARDO DA VINCI. See VINCI.

LEONCLAVIUS (John), one of the most learned men of the 16th century, was a native of Westphalia. He travelled into Turkey, and collected excellent materials for composing *The Ottoman history*; and it is to him the public is indebted for the best account we have of that empire. To his knowledge in the learned languages, he had added that of the civil law; whereby he was very well qualified to translate the *Basilica*. His other versions were esteemed, though critics pretend to have found many faults in them. He died in 1593, aged 60.

LEONIDAS I. king of Sparta, a renowned warrior, slain in defending the straits of Thermopylae against Xerxes, 480 B. C. See SPARTA.

LEONINE, in poetry, is applied to a kind of verses which rhyme at every hemistich, the middle always chiming to the end. Of which kind we find several ancient hymns, epigrams, prophecies, &c.—For instance, Muretus speaking of the poetry of Lorenzo Gambara of Bresse, says,

*Brixia, vestris merdosa volumina vatis,
Non sunt nostrates tergere digna nates.*

The following one is from the school of Salernum:

Ut vites poenam de potibus incipe cœnam.

The origin of the word is somewhat obscure: Pasquier derives it from one Leoninus or Leonius, who excelled in this way; and dedicated several pieces to Pope Alexander III.; others derive it from Pope Leo; and others from the beast called *lion*, by reason it is the loftiest of all verses.

LEONTICA, feasts or sacrifices celebrated among the ancients in honour of the sun.—They were called *Leontica*, and the priests who officiated at them *Leones*, because they represented the sun under the figure of a lion radiant, bearing a tiara, and gripping in his two fore paws the horns of a bull, who struggled with him in vain to disengage himself.

The critics are extremely divided about this feast. Some will have it anniversary, and to have made its return not in a solar but in a lunar year; but others hold its return more frequent, and give instances where the period was not above two hundred and twenty days.

The ceremony was sometimes also called *Mithriaca*; Mithras being the name of the sun among the ancient Persians. There was always a man sacrificed at these feasts, till the time of Hadrian, who prohibited it by a law. Commodus introduced the custom afresh, after whose time it was again exploded.

LEONTICE, **LION'S LEAF**: A genus of the monogynia order, belonging to the hexandria class of plants; and in the natural method ranking under the 24th order, *Corydalis*. The corolla is hexapetalous; the nectarium hexaphyllous, standing on the heels of the corolla, with its limb patent; the calyx hexaphyl-

ous,

Leontini
||
Leonurus.

lous, and deciduous. There are four species, natives of the southern parts of Europe, two of which are sometimes cultivated in this country. These are, 1. The chrysogonum with winged leaves; and, 2. The leontopetalum with decomposed leaves. Both those plants are natives of the Archipelago islands, and also grow in the corn-fields about Aleppo in Syria, where they flower soon after Christmas. They have large tuberous roots like those of the cyclamen, covered with a dark-brown bark. The flowers sit upon naked footstalks: those of the first sort sustain many yellow flowers, but the flowers of the second are of a paler colour. Both species are propagated by seeds, which must be sown soon after they are ripe, otherwise they seldom succeed. When sent to distant countries, they must be preserved in sand. The plants are, however, very difficult to be preserved in this country: for they will not thrive in pots; and when they are planted in the full ground, frost frequently destroys them. The best way is to sow the seed as soon as it comes from abroad, covering it with glasses in the winter to protect it from frost; and, in the spring, when the plants begin to appear, they must have free air admitted to them at all times when the weather is mild, otherwise they will be weak.

LEONTINI, or LEONTIUM (anc. geog.), a town of Sicily on the south side of the river Terias, 20 miles north-west of Syracuse. The territory, called *Campi Leontini*, was extremely fertile (Cicero): these were the *Campi Lastrigoni*, anciently so called; the seat of the Lastrigons, according to the commentators on the poets. The name *Leontini* is from *Leo*, the impression on their coin being a lion. Now called *Lentini*, a town situated in the Val di Noto, in the south-east of Sicily.

LEONTIUM, one of the twelve towns of Achaia, whether on, or more distant from, the bay of Corinth, is uncertain. *Leontium* of Sicily. See LEONTINI.

LEONTODON, DANDELION: A genus of the polygamia æqualis order, belonging to the syngenesia class of plants; and in the natural method ranking under the 49th order, *Compositæ*. The receptacle is naked; the calyx imbricated, with the scales somewhat loose; the pappus feathery. There are nine species, of which the only remarkable one is the *Taraxacum*, or common dandelion, found on the road sides, in pastures, and on the banks of ditches. Early in the spring, the leaves whilst yet white and hardly unfolded are an excellent ingredient in salads. The French eat the roots and tender leaves with bread and butter. Children that eat it in the evening experience its diuretic effects in the night, which is the reason that other European nations as well as ourselves vulgarly call it *piss-a-bed*. When a swarm of locusts had destroyed the harvest in the island of Minorca, many of the inhabitants subsisted upon this plant. The expressed juice has been given to the quantity of four ounces three or four times a day; and Boerhaave had a great opinion of the utility of this and other lactescent plants in visceral obstructions. Goats eat it; swine devour it greedily; sheep and cows are not fond of it, and horses refuse it. Small birds are fond of the seeds.

LEONURUS, LION'S-TAIL: A genus of the gymnospermia order, belonging to the didynamia class of plants; and in the natural method ranking under the

42d order, *Verticillata*. The antheræ are powdered with shining points, or small elevated globular particles.

Leonurus
||
Lepanto.

Species. 1. The *Africana*, with spear-shaped leaves, is a native of Ethiopia. It rises with a shrubby stalk seven or eight feet high, sending out several four-cornered branches, garnished with oblong narrow leaves, acutely indented on their edges, hairy on their upper side, and veined on the under side, standing opposite. The flowers are produced in whorls, each of the branches having two or three of these whorls towards their ends. They are of the lip kind, shaped somewhat like those of the dead nettle; but are much longer, and covered with short hairs. They are of a golden scarlet colour, so make a fine appearance. The flowers commonly appear in October and November, and sometimes continue till the middle of December, but are not succeeded by seeds in this country. There is a variety with variegated leaves which is admired by some, but the whorls of flowers are smaller than those of the plain sort. 2. The *nepetæfolia*, with oval leaves, is a native of the Cape of Good Hope. This rises with a square shrubby stalk about three feet high, sending out several four-cornered branches, garnished with oval crenated leaves, rough on their under side like the dead-nettle, but veined on the upper side, and placed opposite. The flowers come out in whorls like those of the former sort, but are not so long nor so deep coloured. They appear at the same season with the first, and continue as long in beauty. There are three other species, but the above are the most remarkable.

Culture. Both sorts are propagated by cuttings, which should be exposed to the air long enough to harden the shoots, and planted in the beginning of July, after which they will take root very freely. They should be planted in a loamy border to an eastern aspect; and if they are covered closely with a bell or hand-glass to exclude the air, and shaded from the sun, it will forward their putting forth roots. As soon as they have taken good root, they should be taken up and planted each in a separate pot filled with soft loamy earth, and placed in the shade till they have taken new root. In October they must be removed into the green-house.

LEOPARD. See FELIS.

LEOPARD'S BANE, in botany. See DORONICUM.

LEPANTO, a strong and very considerable town of Turkey in Europe, and in Livadia, with an archbishop's see and a strong fort. It is built on the top of a mountain, in form of a sugar-loaf; and is divided into four towns, each surrounded by walls, and commanded by a castle on the top of the mountain. The harbour is very small, and may be shut up by a chain, the entrance being but 50 feet wide. It was taken from the Turks by the Venetians in 1687; but was afterwards evacuated, and the castle demolished in 1699, in consequence of the treaty of Carlowitz. It was near this town that Don John of Austria obtained the famous victory over the Turkish fleet in 1571. The produce of the adjacent country is wine, oil, corn, and rice. Turkey leather is also manufactured here. The wine would be exceedingly good if they did not pitch their vessels on the inside, but this renders the taste very disagreeable to those who are not accustomed.

Lepas
||
Lepium.

flomed to it. The Turks have six or seven mosques here, and the Greeks two churches. It is seated on a gulph of the same name, in E. Long. 22. 13. N. Lat. 38. 34.

LEPAS, the ACORN, in zoology; a genus belonging to the order of vermes testacea. The animal is the triton; the shell is multivalve, unequal, fixed by a stem or sessile. There are several species, of which the most remarkable is the anatifera, consisting of five shells depressed, affixed to a pedicle and in clusters. It adheres to the bottom of ships by its pedicles. The tentacula from its animal are feathered; and have given the old English historians and naturalists the idea of a bird. They ascribed the origin of the barnacle goose to those shells. See Plate CCLXIII.

LEPIDIUM, DITTANDER, or *Pepperwort*: A genus of the filiculose order, belonging to the tetradynamia class of plants; and in the natural method ranking under the 39th order, *Siliquose*. The filicula is emarginated, cordated, and polyspermous, with the valves carinated contrary or broader than the partition. There are 19 species, of which the only remarkable one is the latifolium or common dittander. This is a native of many parts both of Scotland and England. It hath small, white, creeping roots, by which it multiplies very fast, and is difficult to be eradicated after it has long grown in any place. The stalks are smooth, rise two feet high, and send out many side-branches. The flowers grow in close bunches towards the top of the branches, coming out from the side; they are small, and composed of four small white petals. The seeds ripen in autumn. The whole plant has a hot biting taste like pepper; and the leaves have been often used by the country people to give a relish to their viands instead of that spice, whence the plant has got the appellation of *poor man's pepper*. It is reckoned an antiscorbutic, and was formerly used instead of the *horfe radish scurvy-grass*.

LEPIDOPTERA, in zoology, an order of insects, with four wings, which are covered with imbricated squamulae. See ZOOLOGY.

LEPISMA, in zoology; a genus of apterous insects, the characters of which are: They have six feet formed for running; the mouth is furnished with four palpi, two of which are cetaceous and two capitated; the tail is terminated by extended bristles, and the body imbricated with scales. There are 7 species. The *saccharina* (Plate CCLXXIV.) is an American species, so called because mostly found among sugar; but now common in Europe. It is of a leaden colour, but rather inclining to that of silver, by reason of the small silvery scales with which it is covered; by which same circumstance it resembles, especially in its under part, the silver fish. It is found in gardens, under boxes, and in the crevices of window-sashes in houses, where it is very common. It runs with great swiftness, and is difficult to catch. When touched, it loses part of its scales, and its softness makes it easy to crush.

LEPIUM, in natural history, a genus of fossils of the harder gypsum, composed of very small particles, and of a less glittering hue.

There is only one species of this genus, being one of the least valuable and most impure of the class of gypsums. It is of an extremely rude, irregular, coarse, and unequal structure; a little soft to the touch, of a

very dull appearance, and of different degrees of a greyish white. It is burnt in plaster for the coarser works; it calcines very slowly and unequally, and makes but a very coarse and ordinary plaster.

LEPROSY, a foul cutaneous disease, appearing in dry, white, thin, scurfy scabs, either on the whole body, or only some part of it, and usually attended with a violent itching and other pains. See (the *Index* subjoined to) MEDICINE.

The leprosy is of various kinds, but the Jews were particularly subject to that called *Elephantiasis*. Hence the Jewish law excluded lepers from communion with mankind, banishing them into the country or uninhabited places, without excepting even kings. When a leper was cleansed, he came to the city gate, and was there examined by the priests; after this he took two live birds to the temple, and fastened one of them to a wisp of cedar and hyssop tied together with a scarlet ribbon; the second bird was killed by the leper, and the blood of it received into a vessel of water; with this water the priest sprinkled the leper, dipping the wisp and the live bird into it: this done, the live bird was let go; and the leper, having undergone this ceremony, was again admitted into society and to the use of things sacred. See Levit. xiii. 46. 47. and Levit. xiv. 1. 2. &c.

LEPTODECORHOMBES, in natural history, a genus of fossils of the order of the selenitæ; consisting of 10 planes, each so nearly equal to that opposite to it as very much to approach to a decahedral parallelepiped, though never truly or regularly so.

Of this genus there are only five known species. 1. A thin, fine, pellucid, and slender streaked one, with transverse striæ, found in considerable quantities in the strata of clay in most parts of England, particularly near Heddington in Oxfordshire. 2. A thin, dull-looking, opaque, and slender streaked one, more scarce than the former, and found principally in Leicestershire and Staffordshire. 3. A thin fine streaked one, with longitudinal striæ, found in the clay-pits at Richmond, and generally lying at great depths. This has often on its top and bottom a very elegant smaller-rhomboid, described by four regular lines. 4. A rough kind, with thick transverse striæ, and a scabrous surface, very common in Leicestershire and Yorkshire. And, 5. A very short kind, with thick plates, common in the clay-pits of Northamptonshire and Yorkshire.

LEPTOPOLYGINGLIMI, in natural history, a genus of fossil shells, distinguished by a number of minute teeth at the cardo; whereof we find great numbers at Harwich-cliff, and in the marle-pits of Suffex.

LEPTUM, in antiquity, a small piece of money, which, according to some, was only the eighth part of an obolus; but others will have it to be a silver or brass drachm.

LEPTURA, in zoology, a genus of insects belonging to the order of coleoptera, the characters of which are these:—The feelers are bristly; the elytra are attenuated towards the apex: and the thorax is somewhat cylindrical. There are 25 species, principally distinguished by their colour.

LEPUS, in zoology, a genus of quadrupeds belonging to the order of glires. The characters are these:

Leprosy
||
Lepus.

Lepus.

these:—They have two fore-teeth in each jaw; those in the upper-jaw are double, the interior ones being smallest.

1. The timidus, or common hare, has a short tail; the points of the ears are black; the upper-lip is divided up to the nostrils; the length of the body is generally about a foot and a half; and the colour of the hair is reddish, interspersed with white. The hare is naturally a timid animal. He sleeps in his form or seat during the day; and feeds, copulates, &c. in the night. In a moon-light evening, a number of them are sometimes seen sporting together, leaping and pursuing each other: But the least motion, the falling of a leaf, alarms them; and then they all run off separately, each taking a different route. They are extremely swift in their motion, which is a kind of gallop, or a succession of quick leaps. When pursued, they always take to the higher grounds: as their fore-feet are much shorter than the hind ones, they run with more ease up-hill than down-hill. The hare is endowed with all those instincts which are necessary for his own preservation. In winter he chooses a form exposed to the south, and in summer to the north. He conceals himself among vegetables of the same colour with himself. Mr Fouilloux says, that he observed a hare, as soon as he heard the sound of the horn, or the noise of the dogs, although at a mile's distance, rise from her seat, swim across a rivulet, then lie down among the bushes, and by this means evade the scent of the dogs. After being chased for a couple of hours, a hare will sometimes push another from his form, and lie down in it himself. When hard pressed, the hare will mingle with a flock of sheep, run up an old wall and conceal himself among the grass on the top of it, or cross a river several times at small distances. He never runs against the wind, or straight forward; but constantly doubles about, in order to make the dogs lose their scent.

It is remarkable that the hare, although ever so frequently pursued by the dogs, seldom leaves the place where she was brought forth, or even the form in which she usually sits. It is common to find them in the same place next day, after being long and keenly chased the day before. The females are more gross than the males, and have less strength and agility; they are likewise more timid, and never allow the dogs to approach so near their form before rising as the males. They likewise practise more arts, and double more frequently than the males.

The hare is diffused almost over every climate; and, notwithstanding they are every where hunted, their species never diminishes. They are in a condition of propagating the first year of their lives; the females go with young about 30 days, and produce four or five at a time; and as soon as they have brought forth, they again admit the embraces of the male; so that they may be said to be always pregnant. The eyes of the young are open at birth; the mother suckles them about 20 days, after which they separate from her, and procure their own food. The young never go far from the place where they were brought forth; but still they live solitary, and make forms about 30 paces distant from each other: Thus, if a young hare be found any-where, you may almost be certain of finding several others within a very small distance. The

N^o 180.

Lepus.

hare is not so savage as his manners would indicate. He is gentle, and is susceptible of a kind of education. He is pretty easily tamed, and will even show a kind of attachment to the people of the house: But still this attachment is not so strong or lasting as to engage him to become altogether domestic; for although taken when very young, and brought up in the house, he no sooner arrives at a certain age, than he takes the first opportunity of recovering his liberty, and flying to the fields. The hare lives about seven or eight years. He feeds upon grass and other vegetables. His flesh is excellent food.

Hares are very subject to fleas. Linnæus tells us, that the Dalecarlians make a sort of cloth, called *felt*, of the fur; which, by attracting these insects, preserves the wearer from their troublesome attacks. The hair of this creature makes a great article in the hat-manufacture; and, as our country cannot supply a sufficient quantity, a great deal is annually imported from Russia and Siberia. The hare was reckoned a great delicacy among the Roman; the Britons, on the contrary, thought it impious even to taste it: yet this animal was cultivated by them, either for the pleasure of the chase, or for the purposes of superstition; as we are informed, that Boadicea, immediately before her last conflict with the Romans, let loose a hare she had concealed in her bosom, which taking what was deemed a fortunate course, animated her soldiers by the omen of an easy victory over a timid enemy.

2. The variabilis, or varying hare of Pallas, has soft hair, which in summer is grey, with a slight mixture of black and tawny: the ears are shorter, and the legs more slender, than those of the common hare: the tail is entirely white, even in summer; and the feet are most closely and warmly furred. In winter, the whole animal changes to a snowy whiteness, except the tips and edges of the ears, which remain black, as are the soles of the feet, on which, in Siberia, the fur is doubly thick, and of a yellow colour. It is less than the common species.—These animals inhabit the highest Scottish Alps, Norway, Lapland, Russia, Siberia, Kamtschatka, and the banks of the Wolga, and Hudson's Bay. In Scotland, they keep on the tops of the highest hills, and never descend into the vales; nor do they ever mix with the common hare, though these abound in this neighbourhood. They do not run fast; and are apt to take shelter in clefts of rocks. They are easily tamed, and are full of frolic. They are fond of honey and caraway comfits; and they are observed to eat their own dung before a storm. This species changes its colour in September; resumes its grey coat in April; and in the extreme cold of Greenland only is always white. Both kinds of hares are common in Siberia, on the banks of the Wolga, and in the Orenburg government. The one never changes colour: the other, native of the same place, constantly assumes the whiteness of the snow during winter. This it does, not only in the open air and in a state of liberty, but, as experiment has proved, even when kept tame, and preserved in houses in the stove-warmed apartments, in which it experiences the same changes of colour as if it had dwelt on the snowy plains.—They collect together, and are seen in troops of five or six hundred, migrating in spring, and returning in autumn. They are compelled to this by the want of subsistence, quitting

Lepus.

Lepus.

quitting in the winter the lofty hills, the southern boundaries of Siberia, and seek the plains and northern wooded parts, where vegetables abound; and towards spring seek again the mountainous quarters.

Mr Muller says, he once saw two black hares, in Siberia, of a wonderful fine gloss, and of as full a black as jet. Near Casan was taken another, in the middle of the winter 1768. These specimens were much larger than the common kind.

In the southern and western provinces of Russia is a mixed breed of hares, between this and the common species. It sustains, during winter only, a partial loss of colour: the sides, and more exposed parts of the ears and legs, in that season becoming white; the other parts retaining their colours. This variety is unknown beyond the Urallian chain. It is called by the Russians *russack*; they take them in great numbers in snares, and export their skins to England and other places for the manufacture of hats. The Russians and Tartars, like the Britons of old, hold the flesh of hares in detestation, esteeming it impure: that of the variable, in its white state, is excessively insipid.

There have been several instances of what may be called monsters in this species, horned hares, having excrescences growing out of their heads, like to the horns of the roe-buck. Such are those figured in Gesner's history of quadrupeds, p. 634; in the *Museum Regium Hafniae*, n^o 48. tab. iv; and in Klein's history of quadrupeds, 32. tab. iii.; and again described in Wormius's museum, p. 321, and in Grew's museum of the Royal Society. These instances have occurred in Saxony, in Denmark, and near Astracan,

3. The Americanus, American hare, or hedge-coney, has the ears tipped with grey: the upper part of the tail is black, the lower white: the neck and body are mixed with cinereous, rust-colour, and black; the legs are of a pale ferruginous colour; and the belly is white: the fore-legs are shorter, and the hind legs longer, in proportion, than those of the common hare. In length it is 18 inches; and weighs from 3 to 4½ pounds.—This species inhabits all parts of North America. In New Jersey, and the colonies south of that province, it retains its colour the whole year. In New England, Canada, and about Hudson's Bay, at the approach of winter, it changes its short summer's fur for one very long, silky, and silvery, even to the roots of the hairs; the edges of the ears only preserving their colour. At that time these hares are in the highest season for the table; and are of vast use to those who winter in Hudson's Bay, where they are taken in great abundance in springes made of brass-wire, to which they are led by a hedge made for that purpose, with holes left before the snares for the animals to pass through.—They breed once or twice a-year, and have from five to seven at a time. They do not migrate, like the preceding; but always haunt the same places: neither do they burrow; but lodge under fallen timber, and in hollow trees. They breed in the grass; but in spring shelter their young in the trees, to which they also run when pursued; from which, in the southern colonies, the hunters force them by means of a hooked stick, or by making a fire, and driving them out by the smoke.

4. The tolai, or Baikal hare, has a tail longer than that of a rabbit; and the ears are longer in the male

in proportion than those of the varying hare: the fur is of the colour of the common hare; and the size between that of the common and the varying hare. It inhabits the country beyond lake Baikal, and extends through the great Gobi even to Thibet. The Tanguts call it *Rangwo*, and consecrate it among the spots of the moon. The Mongols call it *Tolai*. It agrees with the common rabbit in colour of the flesh; but does not burrow, running instantly (without taking a ring as the common hare does) for shelter, when pursued, into holes of rocks. The fur is bad, and of no use in commerce.

5. The Capensis, or Cape hare, has long ears dilated in the middle; the outsides naked, and of a rose colour, the inside and edges covered with short grey hairs: the crown and back are of a dusky colour mixed with tawny; the cheeks and sides cinereous; the breast, belly, and legs, rust-coloured: the tail is bushy, carried upwards; and of a pale ferruginous colour. The animal is about the size of a rabbit. It inhabits the country three days north of the Cape of Good Hope; where it is called the *mountain hare*, for it lives only in the rocky mountains, and does not burrow. It is difficult to shoot it, as it instantly, on the sight of any one, runs into the fissures of the rocks.

Allied to this, in Mr Pennant's opinion, seems the viscachos, or viscachas, mentioned by Acosta and Feuillée, in their accounts of Peru: they compare them to hares or rabbits. The last says, they inhabit the colder parts of the country. Their hair is very soft, and of a mouse-colour; the tail is pretty long, and turns up; and the ears and whiskers are like those of the common rabbit. In the time of the Incas, the hair was spun, and wove into cloth, which was so fine as to be used only by the nobility.

6. The cuniculus, or rabbit, has a very short tail, and naked ears. The colour of the fur, in a wild state, is brown; the tail black above, white beneath: in a tame state the general colour varies to black, pied, and quite white; and the eyes are of a fine red. The native country of this species is Spain, where they were formerly taken with ferrets, as is practised in this country at present. They love a temperate and warm climate, and are incapable of bearing great cold; so that in Sweden they are obliged to be kept in houses. They abound in Britain. Their furs make a considerable article in the hat manufactories; and of late such part of the fur as is unfit for that purpose, has been found as good as feathers for stuffing beds and bolsters. Numbers of the skins are annually exported into China. The English counties most noted for rabbits are Lincolnshire, Norfolk, and Cambridgeshire. Methold, in the last county, is famous for the best kind for the table: the soil there is sandy, and full of mosses and the *carex* grass. Rabbits swarm in the isles of Orkney, where their skins form a considerable article of commerce. The rabbits of those isles are in general grey; those which inhabit the hills grow hoary in winter.

The variety called the *silver haired* rabbit was formerly in great esteem for lining of clothes, and their skins were sold for 3s. a-piece; but since the introduction of more elegant furs, their price has fallen to 6d. The Sunk Island in the Humber was once famous for a mouse-coloured sort, which has since been extirpated

Lepus.

by reason of the injury they did to the banks by burrowing. — Other varieties are,

The *Angora* rabbit, with hair long, waved, and of a silky fineness, like that of the goat of Angora; — and the *Hooded Rabbit*, described by Edwards as having a double skin over the back into which it can withdraw its head, and another under the throat in which it can place its forefeet: it has small holes in the loose skin on the back, to admit light to the eyes. The colour of the body is cinereous; of the head and ears, brown.

The fecundity of the rabbit is still greater than that of the hare. They will breed seven times in the year, and the female sometimes brings eight young ones at a time. Supposing this to happen regularly for four years, the number of rabbits from a single pair will amount to 1,274,840. By this account we might justly apprehend being overstocked with these animals; but a great number of enemies prevents their increase; not only men, but hawks and beasts of prey making dreadful havoc among them. Notwithstanding all these different enemies, however, we are told by Pliny and Strabo, that they once proved such a nuisance to the inhabitants of the Balearic islands, that they were obliged to implore the assistance of a military force from Augustus in order to exterminate them. They devour herbage of all kinds, roots, grain, fruits, &c. They are in a condition for generating at the end of six months; and, like the hare, the female is almost constantly in season; she goes with young about 30 days, and brings forth from four to eight at a litter. A few days before littering, she digs a hole in the earth, not in a straight line, but in a zig-zag form: the bottom of this hole she enlarges every way, and then pulls off a great quantity of hair from her belly, of which she makes a kind of bed for her young. During the two first days after birth, she never leaves them, but when pressed with hunger, and then she eats quickly and returns: and in this manner she suckles and attends her young for six weeks. All this time both the hole and the young are concealed from the male; sometimes, when the female goes out, she, in order to deceive the male, fills up the mouth of the hole with earth mixed with her own urine. But when the young ones begin to come to the mouth of the hole, and to eat such herbs as the mother brings to them, the father seems to know them: he takes them betwixt his paws, smooths their hair, and caresses them with great fondness.

The following species are without tails.

7. The *Alpinus*, or *Alpine* rabbit, has short, broad, rounded ears; a long head, and very long whiskers, with two very long hairs above each eye: the colour of the fur at the bottom is dusky, towards the ends of a bright ferruginous colour; the tips white, and intermixed are several long dusky hairs, though on first inspection the whole seems of a bright bay. The length of the animal is nine inches. This species is first seen on the Altaic chain; extends to lake Baikal; from thence to Kamtschatka; and, as is said, found in the new-discovered Fox or Aleutian islands. They inhabit always the middle region of the snowy mountains, in the rudest places, wooded and abounding with herbs and moisture. They sometimes form burrows between the rocks, and oftener lodge in the crevices. They are generally found in pairs: but in cloudy weather they collect together, and lie on the rocks, and give a keen

whistle, so like that of a sparrow, as to deceive the hearer. On the report of a gun, they run into their holes; but soon come out again, supposing it to be a clap of thunder, to which they are so much used in their lofty habitations. By wonderful instinct they make a provision against the rigorous season in their inclement seats. A company of them, towards autumn, collect together vast heaps of choice herbs and grasses, nicely dried, which they place either beneath the over-hanging rocks, or between the chasms, or round the trunk of some tree. The way to these heaps is marked by a worn path. In many places the herbs appeared scattered, as if to be dried in the sun and harvested properly. The heaps are formed like round or conoid ricks; and are of various sizes, according to the number of the society employed in forming them. They are sometimes of a man's height, and many feet in diameter, but usually about three feet. Without this provision of winter's stock they must perish, being prevented by the depth of snow from quitting their retreats in quest of food. They select the best of vegetables, and crop them when in the fullest vigour, which they make into the best and greenest hay by the judicious manner in which they dry it. These ricks are the origin of fertility amidst the rocks; for the reliques, mixed with the dung of the animals, rot in the barren chasms, and create a soil productive of vegetables. These ricks are also of great service to those people who devote themselves to the laborious employment of sable-hunting; for being obliged to go far from home, their horses would often perish for want if they had not the provision of these little industrious animals to support them; which is easily to be discovered by their height and form, even when covered with snow. It is for this reason that this little creature has a name among every Siberian and Tartarian nation, which otherwise would have been overlooked and despised. The people of Jakutz are said to feed both their horses and cattle with the reliques of the winter stock of these hares. These animals are neglected as a food by mankind; but are the prey of fables and the Siberian weasel, which are joint inhabitants of the mountains. They are likewise greatly infested by a sort of gadfly, which lodges its egg in their skin in August and September, which often proves destructive to them.

8. The *ogotona* has oblong oval ears, a little pointed; with shorter whiskers than the former, and hairs long and smooth: the colour of those on the body is brown at the roots, light grey in the middle, and white at the ends intermixed with a very few dusky hairs: there is a yellowish spot on the nose, and space about the rump of the same colour: the outside of the limbs are yellowish; the belly is white. The length is about six inches: weight of the male, from $6\frac{1}{2}$ to $7\frac{1}{4}$ ounces; of the female, from 4 to $4\frac{1}{4}$. This species inhabits only the country beyond lake Baikal, and from thence is common in all parts of the Mongolian desert, and the vast desert of Gobeë, which extends on the back of China and Thibet, even to India. It frequents the open valleys and gravelly or rocky naked mountains. These little creatures are called by the Mongols *Ogotona*; and are found in vast abundance. They live under heaps of stones; or burrow in the sandy soil, leaving two or three entrances, which all run obliquely. They make a nest of soft grass; and the old females make for security a number of burrows near each other, that they may

Lepus.

LEPUS.

Plate CCLXIX.

Wild Rabbit.



Hooded Rabbit.



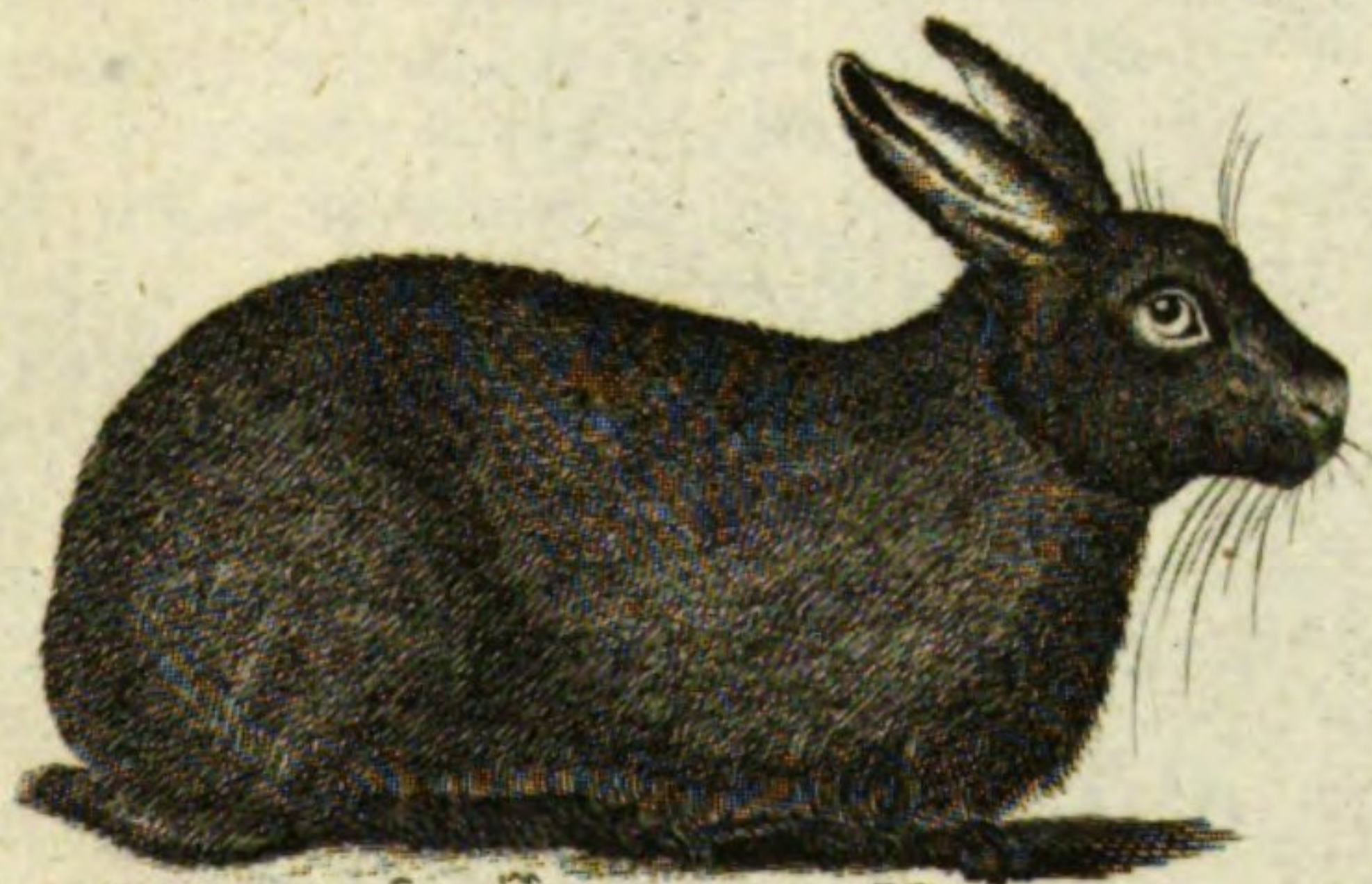
Domestic Rabbit.



Angora Rabbit.



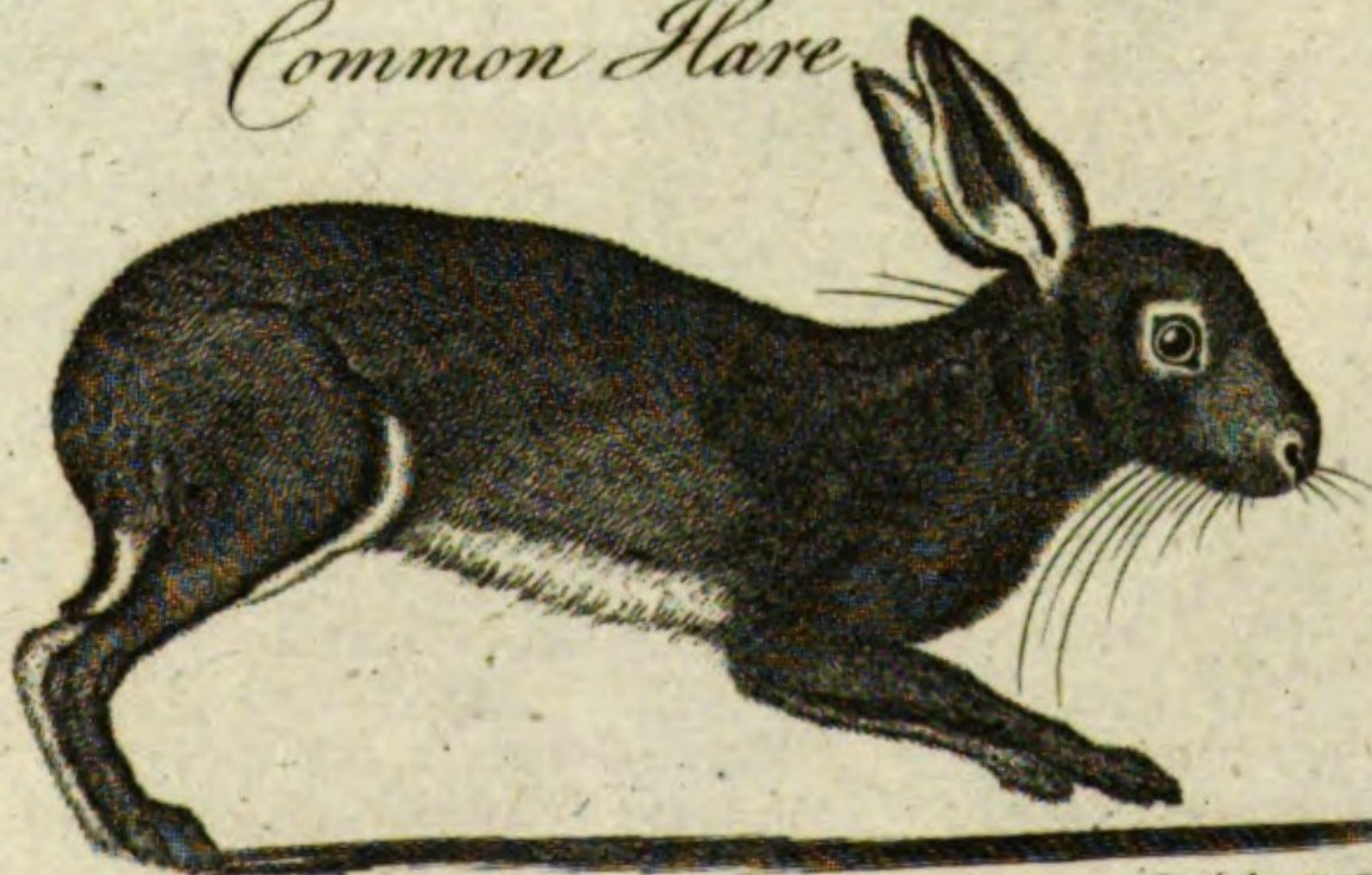
Silver Haired Rabbit.



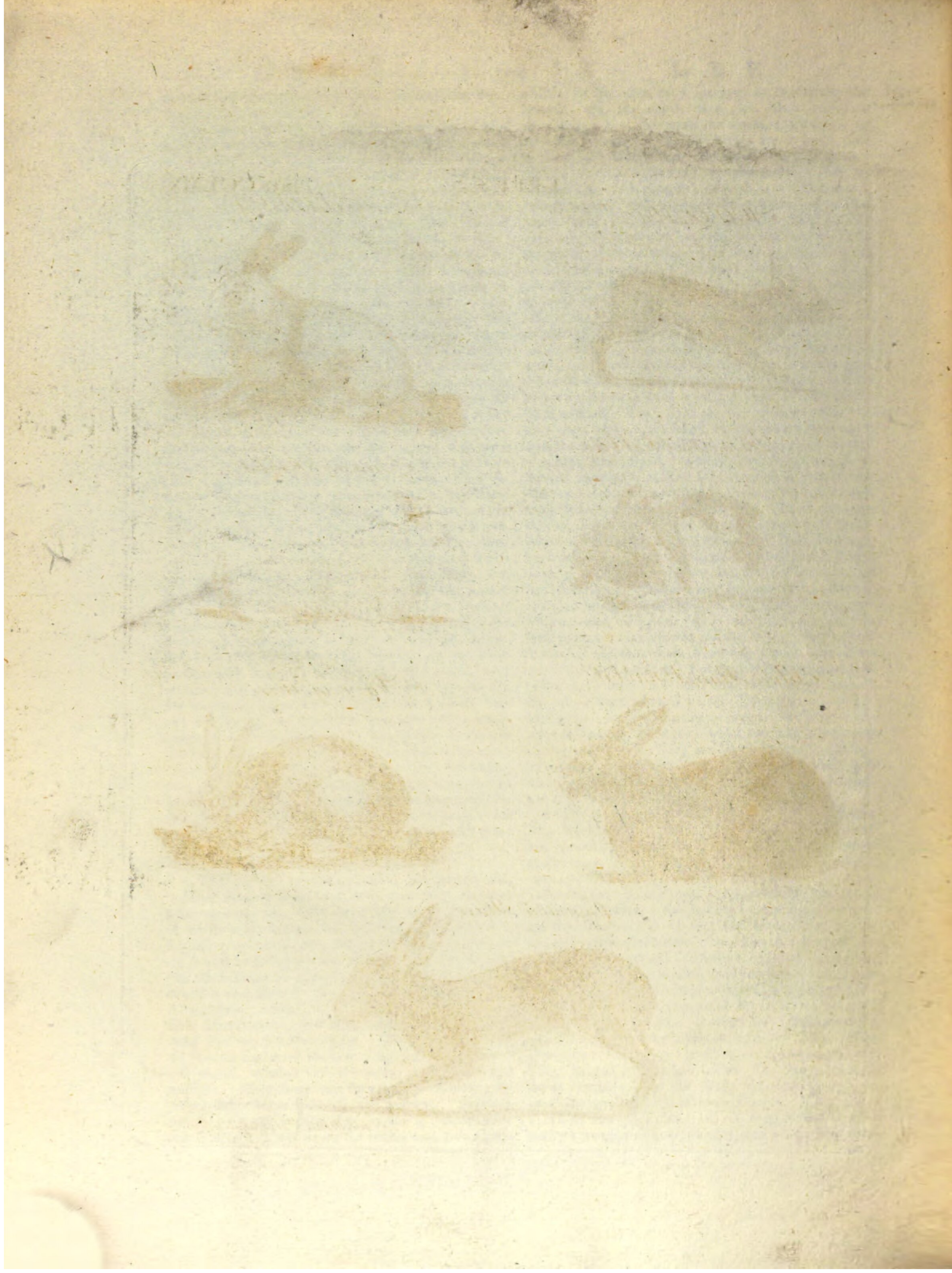
Varying Hare.



Common Hare.



A. Bell Pin. W. & Sculptor fecit.



Lepus. may if disturbed retreat from one to the other. They wander out chiefly in the night. Their voice is excessively shrill, and emits a note like that of a sparrow, twice or thrice repeated, but very easily to be distinguished from that of the Alpine rabbit. They live principally on the tender bark of a sort of service and the dwarf-elm; in the spring, on different herbs. Before the approach of severe cold, in the early spring, they collect great quantities of herbs, and fill their holes with them, which the inhabitants of the country consider as a sure sign of change of weather. Directed by the same instinct with the former species, they form in autumn their ricks of hay of a hemispherical shape, about a foot high and wide: in the spring these elegant heaps disappear, and nothing but the relicts are seen. They copulate in the spring, and about the latter end of June their young are observed to be full grown. They are the prey of hawks, magpies, and owls: but the cat *Manul*† makes the greatest havoc among them; and the ermine and fitchet are equally their enemy.

† See *Felis*.

9. The pusillus, or calling rabbit, with a long head thickly covered with fur even to the tip of the nose; numerous hairs in the whiskers; ears large and rounded; legs very short, and the soles furred beneath: its whole coat is very soft, long, and smooth, with a thick, long, fine down beneath, of a brownish lead-colour; the hairs are of the same colour, towards the ends of a light grey and tipped with black; the lower part of the body is hoary: the sides and ends of the fur are yellowish. The length of the animal is about six inches: weight from $3\frac{1}{4}$ to $4\frac{1}{2}$ oz. but in winter scarcely $2\frac{1}{2}$. This species inhabits the south-east parts of Russia, and about all the ridge of hills spreading southward from the Urallian chain; also about the Irish, and in the west part of the Altaic chain; but no where in the east beyond the Oby. They delight in the most sunny valleys and herby hills, especially near the edges of woods, to which they run on any alarm. They live in so concealed a manner as very rarely to be seen: but are often taken in winter in the snares laid for the ermines; so are well known to the hunters. About the Volga they are called *semłanoi Saetsbik*, or *ground hare*: the Tartars, from their voice, style them *tschotschot* or *ittsitfkan*, or the *barking mouse*: the Kalmucs call them *rusla*. They choose for their habitations a dry spot, amidst bushes covered with a firm sod, preferring the western sides of the hills. In these they burrow, leaving a very small hole for the entrance; and forming long galleries, in which they make their nests. Those of the old ones and females are numerous and intricate: so that their place would be scarcely known but for their excrements; and even those they drop, by a wise instinct, under some bush, lest their dwelling should be discovered by their enemies among the animal creation. Their voice alone betrays their abode; it is like the piping of a quail, but deeper, and so loud as to be heard at the distance of half a German mile. It is repeated by just intervals, thrice, four times, and often six. The voice is emitted at night and morning; in the day, except in rainy and cloudy weather. It is common to both sexes; but the female is silent for some time after parturition, which is about the beginning of May N. S. She brings forth six at a

time, blind and naked; which she suckles often, and covers carefully with the materials of her nest. These most harmless and inoffensive animals never go from their holes. They feed and make their little excursions by night: they are easily made tame; and will scarcely bite when handled. The males in confinement are observed to attack one another, and express their anger by a grunting noise.

There are three or four other species of *Lepus*. Several are figured on Plate CCLXIX.

LEPUS, the hare, in astronomy, a constellation of the southern hemisphere; whose stars in Ptolemy's catalogue are 12; in that of Tycho's 13; and in the Britannic 19.

LERCHEA, in botany; a genus of the pentandria order, belonging to the monodelphia class of plants. The calyx is five-toothed; the corolla funnel-shaped and quinquefid; there are five antheræ sitting on the tube of the germ; there is one style; the capsule trilobular and polyspermous.

LERI (John de), a Protestant minister of the province of Burgundy. He was studying at Geneva when it was reported there that Villegagnon desired they would send him some pastors into Brazil. He made that voyage with two ministers, whom the church of Geneva sent thither in 1556; and wrote an account of that voyage, which has been much commended by Thuanus and others.

LERIA, or LEIRIA, a strong town of Estremadura in Portugal, with a castle and bishop's see. It contains about 3500 inhabitants, and was formerly the residence of the kings of Portugal. W. Long. 7. 50. N. Lat. 39. 40.

LERIDA, an ancient, strong, and large town of Spain, in Catalonia, with a bishop's see, an university, and a strong castle. This place declared for king Charles after the reduction of Barcelona in 1705: but it was retaken by the duke of Orleans in 1707, after the battle of Almanza. It is seated on a hill near the river Segra, and in a fertile soil, in E. Long. 0. 35. N. Lat. 41. 31.

LERINA, or PLANASIA, (anc. geog.), one of the two small islands over against Antipolis, called also *Lerinas* and *Lirinus*. Now St Honorat, on the coast of Provence, scarce two leagues to the south of Antibes.

LERINS, the name of two islands in the Mediterranean sea, lying on the coast of Provence in France, five miles from Antibes; that near the coast, called *St Margaret*, is guarded by invalids, state-prisoners being sent here. It was taken by the English in 1746, but marshal Belleisle retook it in 1747. The other is called *St Honorat*; and is less than the former, but has a Benedictine abbey.

LERMA, a town of Spain, in Old Castile, seated on the river Arlanza, with the title of a *duchy*. W. Lon. 3. 5. N. Lat. 42. 2.

LERNA, (anc. geog.), not far from Argos, on the confines of Laconica; supposed to be a town of Laconica, but on the borders of Argolis; the position which Pausanias allots to it, near Temenium, on the sea; without adding whether it is town, river, or lake. According to Strabo, it is a lake, situated between the territories of Argos and Mycene, in contradiction to Pausanias. If there was a town of this name, it

Lerne
||
Lerwick.

seems to have stood towards the sea, but the lake to have been more inland. Mela calls it a well-known town on the Sinus Argolicus; and Statius by Lerna seems to mean something more than a lake. This, however, is the lake in which, as Strabo says, was the fabled Hydra of Hercules: therefore called *Lerna Anguifera* (Statius). The lake runs in a river or stream to the sea, and perhaps arises from a river, (Virgil.) From the lake the proverb, *Lerna Malorum*, took its rise; because, according to Strabo, religious purgations were performed in it; or, according to Hesychius, because the Argives threw all their filth into it.

LERNEA, in zoology; a genus of insects of the order of Vermes mollusca, the characters of which are: The body fixes itself by its tentacula, is oblong, and rather tapering; there are two ovaries like tails, and the tentacula are shaped like arms. (See three specimens figured on Plate CCLXXIV.)—1. The cypri-nacea has four tentacula, two of which are lunulated at the top. It is a small species; about half an inch long, and of the thickness of a small straw: the body is rounded, of a pale greyish white, glossy on the surface, and somewhat pellucid: it is thrust out of a kind of coat or sheath, as it were at the base, which is of a white colour and a thick skin: towards the other extremity of the body, there are three obtuse tubercles, one of which is much larger than the rest: the mouth is situated in the anterior part, and near it there are two soft and fleshy processes; and near these there is also on each side another soft process, which is lunated at the extremity. It is found on the sides of the bream, carp, and roach, in many of our ponds and rivers, in great abundance. 2. The salmonea, or salmon-louse, has an ovated body, cordated thorax, and two linear arms approaching nearly to each other. 3. The asellina, has a lunated body and cordated thorax; and inhabits the gills of the cod-fish and ling of the northern ocean.

LERNICA, formerly a large city in the island of Cyprus, as appears from its ruins; but is now no more than a large village, seated on the southern coast of that island, where there is a good road, and a small fort for its defence.

LERO (anc. geog.); one of the two small islands in the Mediterranean, opposite to Antipolis, and half a mile distant from it to the south. Now *St Margarita*, over against Antibes, on the coast of Provence.

LERO, or *Leros*, an island of the Archipelago, and one of the Sporades; remarkable, according to some authors, for the birth of Patroclus. E. Long. 26. 15. N. Lat. 37. 0.

LE ROY LE VEUT, the king's assent to public bills. See the articles BILL, STATUTE, and PARLIAMENT.

LERWICK, the capital town of Shetland, situated in the island called the *Mainland*, in W. Long. 1. 30. N. Lat. 61. 20. It contains about 300 families, with abundance of good houses, and as fashionable people as are to be seen in any town in Scotland of its bulk. At the north end of the town there is a regular fort, which was built at the charge of the government in the reign of King Charles II.; who, in the time of his first war with the Dutch, sent over a garrison consisting of 300 men under the command of one colonel William Sinclair a

native of Zetland, and one Mr Milne architect, for building the said fort, with 20 or 30 cannons to plant upon it for protection of the country. There was a house built within the fort sufficient to lodge 100 men. The garrison staid here three years; the charge of which, with the building the fort, is said to have stood the king 28,000 pounds sterling. When the garrison removed, they carried off the cannon from the fort; and in the next war with the Dutch, two or three years after the garrison removed, a Dutch frigate came into Brasay Sound, and burnt the house in the fort and several others the best in the town. Lerwick has no freedoms nor privileges, but is governed by a bailie upon the same footing with the other bailies in the country. There is a church in it, and one minister, of the Presbyterian establishment. He has for stipend 500 marks paid him out of the bishop's rents of Orkney, 300 marks by the town of Lerwick, and the tythes of Gulberwick about 200 marks; making in all 1000 marks Scots yearly, with a free house and garden. Lerwick chiefly subsists by the resort of foreigners to it; so when that fails it must decline, as indeed it has done for several years past, having been very little frequented by foreigners, and thereby is become very poor. Several projects have been talked of, and written upon, which might have been very beneficial to Lerwick and Zetland had they taken place; as that of the British merchants carrying goods from Muscovy and Sweden, designed for the plantations in America, that must be entered in Britain, having them entered at Lerwick, which would save a great deal of time and charges to these merchants; also the Greenland and Herring Fishery companies of Britain proposed Lerwick as a most commodious port for lodging their stores in, and for repacking their herrings, melting their oil, and thence exporting the same to foreign markets. The grand objection to these settlements is, that Lerwick is an open unfortified place; and in case of a war, the merchants ships and goods would be exposed to the enemy: for removing of which difficulty, it has been observed, that would government bestow a small garrison upon it of only 100 men and about 20 pieces of cannon, and be at a small charge in repairing the old fort, and erecting a small battery or two more, these measures might be sufficient to secure the place against any ordinary effort the enemy might make against it; and Lerwick being thus fortified, all British ships coming from the East or West Indies, could come safely there in time of war, and lie secure until carried thence by convoy, or otherwise as the proprietors should direct; and thus Lerwick might become more advantageous to the trade of Great Britain than Gibraltar or Port Mahon, and that for one-tenth part of the charge of either of those places.

LESBOS, a large island in the Ægean sea, on the coast of Æolia, of about 168 miles in circumference. It has been severally called *Pelasgia*, from the Pelasgi by whom it was first peopled; *Macaria*, from Macareus who settled in it; and *Leshos*, from the son-in-law and successor of Macareus who bore the same name. The chief towns of Lesbos were Methymna and Mitylene. It was originally governed by kings, but they were afterwards subjected to the neighbouring powers. The wine which it produced was greatly esteemed by the ancients, and still is in the same repute among the moderns.

Lerwick,
Lesbos.

Gifford's
Descript. of
Zetland,

p. 7-

Lescaille ||
Lefguis. } moderns. The Lesbians were so debauched and dissipated, that the epithet of *Lesbian* was often used to signify debauchery and extravagance. Lesbos has given birth to many illustrious persons, such as Arion, Terpander, Sappho, &c. See MITYLENE.

LESCAILLE (James), a celebrated Dutch poet and printer, was born at Geneva. He and his daughter Catharine Lescaille have excelled all the Dutch poets. That lady, who was surnamed the *Sappho of Holland*, and the *tenth Muse*, died in 1711. A collection of her poems has been printed, in which are the Tragedies of Genferic, Wenceslaus, Herod and Mariamne, Hercules and Dejanaira, Nicomedes, Ariadne, Cassandra, &c. James Lescaille her father deserved the poet's crown, with which the emperor Leopold honoured him in the year 1603: he died about the year 1677, aged 67.

LESCAR, a town of Gascony, in France, and in the territory of Bearn, with a bishop's see; seated on a hill, in W. Long. 0. 30. N. Lat. 43. 23.

LESGUIS, a people of Asia, whose country is indifferently called by the Georgians *Lefguistan* and *Daghestan*. It is bounded to the south and east by Persia and the Caspian, to the south-west and west by Georgia, the Ossis, and Kisti, and to the north by the Kisti and Tartar tribes. It is divided into a variety of districts, generally independent, and governed by chiefs elected by the people. Guldenstaedt has remarked, in the Lefguis language, eight different dialects, and has classed their tribes in conformity to this observation.

The first dialect comprehends 15 tribes, which are as follow: 1. Avar, in Georgian Chunfagh. The chief of this district, commonly called *Avar-Khan*, is the most powerful prince of Lefguistan, and resides at Kabuda, on the river Kaseruk. The village of Avar is, in the dialect of Andi, called *Harbul*. 2. Kaseruk, in the high mountains, extending along a branch of the Koifu, called *Karak*. This district is dependant on the Khan of the Kasi Kumychs. 3. Idatle, on the Koifu, joining on the Andi; subject to the Avar Khan. 4. Mukratle, situated on the Karak, and subject to the Avar Khan. 5. Onsekul, subject to the same, and situated on the Koifu. 6. Karakhle, upon the Karak, below Kaseruk, subject to the same. 7. Ghumbet, on the river Ghumbet, that joins the Koifu, subject to the chief of the Coumyks. 8. Arakan; and, 9. Burtuma, on the Koifu. 10. Antsfugh, on the Samura, subject to Georgia. 11. Tebel, on the same river, independent. 12. Tamurgi, or Tumural, on the same river. 13. Akhti; and, 14. Rutal, on the same. 15. Dshar, in a valley that runs from the Alazan to the Samura. It was formerly subject to Georgia, but is now independent. In this district are seen remains of the old wall that begins at Derbent, and probably terminates at the Alazan.—The inhabitants of Derbent believe that their town was built by Alexander, and that this wall formerly extended as far as the Black Sea. It is, however, probable, from many inscriptions in old Turkish, Persian, Arabic, and Russian characters, that the wall, and the aqueducts with their various subterraneous passages, many of which are now filled up, are of high antiquity. This town suffered greatly during its siege by Sultan Amurath, who entirely destroyed the lower

quarter, then inhabited by Greeks. It was again taken by Schach Abbas. (Gaerber). This town is the old Pylæ Caspiæ. Lefguis.

The second dialect is spoken in the two following districts: 1. Dido, or Didonli, about the source of the Samura. This district is rich in mines; a ridge of uninhabited mountains divides it from Caket. 2. Unso, on the small rivulets that join the Samura. These two districts, containing together about 1000 families, were formerly subject to Georgia, but are now independent.

The third dialect is that of Kabutsh, which lies on the Samura rivulets, east of Dido, and north of Caket.

The fourth dialect is that of Andi, situated on a rivulet that runs into the Koifu. Some of its villages are subject to the Avar-Khan, but the greater part to the Khan of Axai. The whole consists of about 800 families.

The fifth dialect is common to four districts, namely, 1. Akusha, on the Koifu, subject to the Usmei, or Khan of the Caitaks, and Kara-Caitaks, containing about 1000 families. The following custom is attributed by Colonel Gaerber to the subjects of this prince: "Whenever the Usmei has a son, he is carried round from village to village, and alternately suckled by every woman who has a child at her breast until he is weaned. This custom, by establishing a kind of brotherhood between the prince and his subjects, singularly endears them to each other." 2. Balkar. 3. Zudakara, or Zudakh, down the Koifu, subject to the Usmei. 4. Kubesha, near the Koifu. Colonel Gaerber, who wrote an account of these countries in 1728, gives the following description of this very curious place: "Kubesha is a large strong town, situated on a hill between high mountains. Its inhabitants call themselves Franki (Franks, a name common in the east to all Europeans), and relate, that their ancestors were brought hither by some accident, the particulars of which are now forgotten. The common conjecture is, that they were mariners cast away upon the coast; but those who pretend to be better versed in their history, tell the story this way:—The Greeks and Genoese, say they, carried on, during several centuries, a considerable trade, not only on the Black sea, but likewise on the Caspian, and were certainly acquainted with the mines contained in these mountains, from which they drew by their trade with the inhabitants great quantities of silver, copper, and other metals. In order to work these upon the spot, they sent hither a number of workmen to establish manufactures, and instruct the inhabitants. The subsequent invasions of the Arabs, Turks, and Monguls, during which the mines were filled up, and the manufactures abandoned, prevented the strangers from effecting their return, so that they continued here, and erected themselves into a republic. What renders this account the more probable is, that they are still excellent artists, and make very good fire arms, as well rifled as plain; sabres, coats of mail, and several articles in gold and silver, for exportation. They have likewise, for their own defence, small copper cannons, of three pounds calibre, cast by themselves. They coin Turkish and Persian silver money, and even rubles, which readily pass current, because they are of the full weight and value."

Lefguis,
Lefkard.

value. In their valleys they have pasture and arable lands, as well as gardens; but they purchase the greater part of their corn, trusting chiefly for support to the sale of their manufactures, which are much admired in Persia, Turkey, and the Crimea. They are generally in good circumstances, are a quiet, inoffensive people, but high spirited, and independent. Their town is considered as a neutral spot, where the neighbouring princes can deposit their treasures with safety. They elect yearly twelve magistrates, to whom they pay the most unlimited obedience; and as all the inhabitants are on a footing of perfect equality, each individual is sure to have in his turn a share in the government. In the year 1725, their magistrates, as well as the Usmei, acknowledged the sovereignty of Russia, but without paying any tribute." 5. Zudakara, or Zadakh, down the Koifu, subject to the Usmei. It contains about 2000 families.

The sixth dialect belongs to the districts on the eastern slope of Caucasus, between Tarku and Derbent, which are, 1. Caitak; and 2. Tabasseran, or Kara-Caitak, both subject to the Usmei.

The seventh dialect is that of Kafi-Coumyk, on a branch of the Konifu, near Zudakara. This tribe has a khan, whose authority is recognised by some neighbouring districts.

The eighth dialect is that of Kuracle, belonging to the khan of Cuba.

Besides these, there are some other Lefguis tribes, whose dialects Mr Guldenstaedt was unable to procure. From a comparison of those which he has obtained, it appears that the language of the Lefguis has no kind of affinity with any other known language, excepting only the Samoyede, to which it has a remote resemblance.

This people is probably descended from the tribes of mountaineers, known to ancient geographers under the name of *Lefgae*, or *Ligyæ*. The strength of their country, which is a region of mountains, whose passes are known only to themselves, has probably at all times secured them from foreign invasion; but as the same cause must have divided them into a number of tribes, independent of each other, and perhaps always distinguished by different dialects, it is not easy to imagine any common cause of union which can ever have assembled the whole nation, and have led them to undertake very remote conquests. Their history, therefore, were it known, would probably be very uninteresting to us. They subsist by raising cattle, and by predatory expeditions into the countries of their more wealthy neighbours. During the troubles in Persia, towards the beginning of this century, they repeatedly sacked the towns of Shamachie and Ardebil, and ravaged the neighbouring districts; and the present wretched state of Georgia and of part of Armenia, is owing to the frequency of their incursions. In their persons and dress, and in their general habits of life, as far as these are known to us, they greatly resemble the Circassian.

LESKARD, a town in Cornwall, seated in a level, is a corporation, and sends two members to parliament. It had formerly a castle, now in ruins. It is one of the largest and best built towns in Cornwall, with the greatest market. It was first incorporated by Edward earl of Cornwall, afterwards by King John's

son, Richard king of the Romans, and had privileges granted it a charter; by which it was to have a mayor and burgeses, who should have a perpetual succession, purchase lands, &c. Here is a handsome town-hall built on stone pillars, with a turret on it, and a noble clock with four dials that cost near 200 l. Here are a large church, a meeting-house, an eminent free-school, and a curious conduit; and on the adjacent commons, which feed multitudes of sheep, there have been frequent horse-races. It has a market on Saturday, and seven fairs in the year. The list of its parliament men begins the 23d of Edward I. Here is a very great trade in all manufactures of leather; and some spinning is set up here lately, encouraged by the clothiers of Devonshire. On the hills of North Lefkard, and in the way from hence to Launceston, are many mines of tin, which is cast at the blowing houses into blocks, that are sent hither to be coined.

LESLIE (John), bishop of Ross in Scotland, the son of Gavin Leslie an eminent lawyer, was born in the year 1526, and educated at the university of Aberdeen; of which diocese he was made official, when but a youth. He was soon after created doctor of civil and canon law; but being peculiarly addicted to the study of divinity, he took orders, and became parson of Uue. When the reformation began to spread in Scotland, and disputes about religion ran high, Dr Leslie, in 1560, distinguished himself at Edinburgh as a principal advocate for the Romish church, and was afterwards deputed by the chief nobility of that religion to condole with queen Mary on the death of her husband the king of France, and to invite her to return to her native dominions. Accordingly, after a short residence with her majesty, they embarked together at Calais in 1561, and landed at Leith. She immediately made him one of her privy-council, and a senator of the college of justice. In 1564, he was made abbot of Lundores; and on the death of Sinclair was promoted to the bishopric of Ross. These accumulated honours he wished not to enjoy in luxurious indolence. The influence derived from them, he exerted to the prosperity of his country. It is to him that Scotland is indebted for the publication of its laws, commonly called "The black acts of parliament," from the Saxon character in which they were printed. At his most earnest desire, the revision and collection of them were committed to the great officers of the crown. In 1568, queen Mary having fled to England for refuge, and being there detained a prisoner, queen Elizabeth appointed certain commissioners at York to examine into the cause of the dispute between Mary and her subjects. These commissioners were met by others from the queen of Scots. The bishop of Ross was of the number, and pleaded the cause of his royal mistress with great energy, though without success: Elizabeth had no intention to release her. Mary, disappointed in her expectations from the conference at York, sent the bishop of Ross ambassador to Elizabeth, who paid little attention to his complaints. He then began to negotiate a marriage between his royal mistress and the duke of Norfolk; which negotiation, it is well known, proved fatal to the duke, and was the cause of Leslie's being sent to the Tower. In 1573 he was banished the kingdom, and retired to Holland.

Leslie.

L.essie.

Holland. The two following years he spent in fruitless endeavours to engage the powers of Europe to espouse the cause of his queen. His last application was to the pope; but the power of the heretic Elizabeth had no less weight with his holiness than with the other Roman Catholic princes of Europe. Finding all his personal applications ineffectual, he had recourse to his pen in Queen Mary's vindication; but Elizabeth's *ultima ratio regum* was too potent for all his arguments. Bishop Lessie, during his exile, was made coadjutor to the archbishop of Rouen. He was at Brussels when he received the account of Queen Mary's execution; and immediately retired to the convent of Guirternberg near that city, where he died in the year 1596. It was during the long and unfortunate captivity of Mary, that he amused himself in writing the History of Scotland, and his other works. The elegance and charms of literary occupations served to assuage the violence of his woes. His knowledge and judgment as an historian are equally to be commended. Where he acts as the transcriber of Boece, there may be distinguished, indeed, some of the inaccuracies of that writer. But, when he speaks in his own person, he has a manliness, a candour, and a moderation, which appear not always even in authors of the Protestant persuasion. His works are, 1. *Afflicti animi consolationes*, &c. composed for the consolation of the captive queen. 2. *De origine, moribus, et gestis Scotorum*. 3. *De titulo et jure serenissime Mariae Scotorum reginae, quo regni Angliae successionem sibi jure vindicat*. 4. *Parænesis ad Anglos et Scotos*. 5. *De illust. feminarum in republ. administranda*, &c. 6. *Oratio ad reginam Elizabetham pro libertate impetranda*. 7. *Parænesis ad nobilitatem populumque Scoticum*. 8. An account of his proceedings during his embassy in England from 1568 to 1572; manuscript, Oxon. 9. Apology for the bishop of Ross, concerning the duke of Norfolk; manuscript, Oxon. 10. Several letters, manuscript.

LESLIE (Charles), an Irish divine, and a zealous Protestant: but being attached to the house of Stuart, he left Ireland, and went to the pretender at Bar le Duc, and resided with him till near the time of his death; constantly endeavouring to make him a Protestant, but without effect. He died in 1722. His principal works are, 1. A short and easy method with the Deists. 2. A short and easy method with the Jews. 3. The snake in the grass. 4. Hereditary right to the Crown of England asserted. 5. The Socinian controversy discussed. 6. The charge of Socinianism against Dr Tillotson considered; and many others.

All his theological pieces, except that against Archbishop Tillotson, were collected and published by himself, in 2 vols folio.

LESSER TONE, in music. See TONE.

LESSINES, a town of the Austrian Netherlands, in Hainault, seated on the river Dender, and famous for its linen manufacture. W. Long. 3. 53. N. Lat. 51. 41.

LESSONS, among ecclesiastical writers, portions of the Holy Scripture, read in Christian churches, at the time of divine service.

In the ancient church, reading the Scriptures was one part of the service of the catechumens; at which all persons were allowed to be present, in order to obtain instruction.

The church of England, in the choice of lessons, proceeds as follows: for the first lesson on ordinary days, she directs, to begin at the beginning of the year with Genesis, and so continue on, till the books of the Old Testament are read over; only omitting the Chronicles, which are for the most part the same with the books of Samuel and Kings, and other particular chapters in other books, either because they contain names of persons, places, or other matters less profitable to ordinary readers.

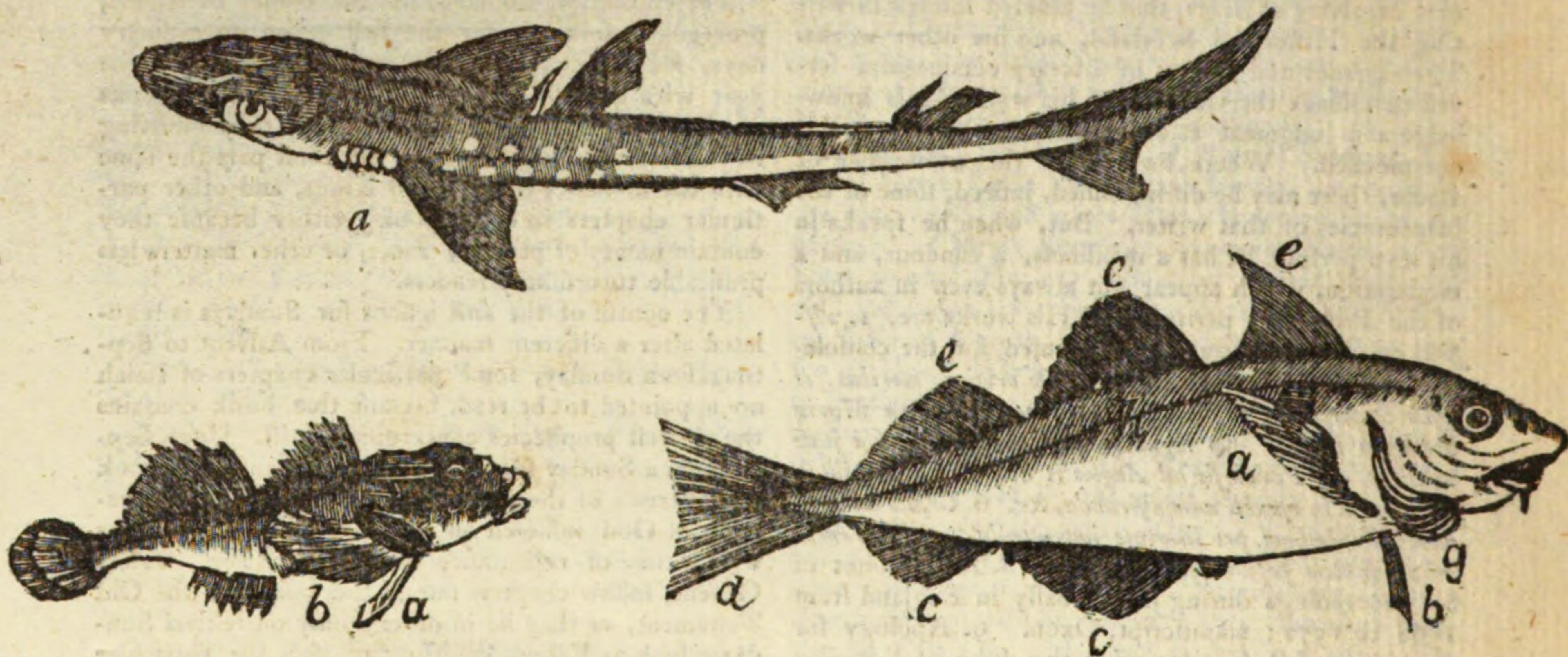
The course of the first lessons for Sundays is regulated after a different manner. From Advent to Septuagesima Sunday, some particular chapters of Isaiah are appointed to be read, because that book contains the clearest prophecies concerning Christ. Upon Septuagesima Sunday Genesis is begun, because that book which treats of the fall of man, and the severe judgment of God inflicted on the world for sin, best suits with a time of repentance and mortification. After Genesis, follow chapters out of the books of the Old Testament, as they lie in order; only on festival Sundays, such as Easter, Whit Sunday, &c. the particular history relating to that day is appointed to be read; and on the saints-days, the church appoints lessons out of the moral books, such as Proverbs, Ecclesiastes, Ecclesiasticus, &c. as containing excellent instructions for the conduct of life.

As to the second lessons, the church observes the same course both on Sundays and week-days: reading the gospels and Acts of the Apostles in the morning, and the epistles in the evening, in the order they stand in the New Testament: excepting on saints days and holy days, when such lessons are appointed as either explain the mystery, relate the history, or apply the example to us.

Lesser Lessons.

E R R A T A.

VOL. VII. p. 99. col. 1. l. 11. from bottom. For 1760, read 1770.
 238. col. 1. l. 16. from bottom. For "See FILLEBEG," read "See PHILIBEG."
 299. col. 1. l. 23. For *flood*, read *cbb*; and in l. 24. dele "or old."
 VOL. VIII. Plate CCXXIX. fig. 8. For 13, read 17; for 14, r. 18; for 15, r. 19; for 16, r. 20; for 17, r. 13; for 18, r. 14; for 19, r. 15; for 20, r. 16.
 Plate CCXXXIII. fig. 24. The Hatchments N^o 1, 2. are shaded, by mistake, on the *dexter* instead of the *sinister* side.
 VOL. IX. In Plate CCLI. fig. 2, 4, 5. (*Ichthyology*), the letters of reference happened to be omitted. Corrected impressions were intended to have been given; but it was found that the state of the plate would not admit of it, and there was not time for a new engraving. The omissions, however, may be easily supplied with the pen, by copying in the letters as they are represented below:



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In all, 31 Plates.

Encyclopaedia britannica or a dictionary of arts, sciences and
miscellaneous literature

Bd.: 9,2

Edinburgh (1810)

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